



## DoD INSTRUCTION 1354.01

# POLICY ON ORGANIZATIONS THAT SEEK TO REPRESENT OR ORGANIZE SERVICE MEMBERS IN NEGOTIATION OR COLLECTIVE BARGAINING

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**Originating Component:** Office of the Under Secretary of Defense for Personnel and Readiness

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**Approved by:** Virginia S. Penrod, Acting Under Secretary of Defense for Personnel and Readiness

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**Purpose:** In accordance with the authority in DoD Directive 5124.02, this issuance:

- Establishes policies, assigns responsibilities, and prescribes procedures and guidelines for organizations whose objective is to organize or represent Service members for the purpose(s) of negotiating or bargaining the terms or conditions of military service.
- Promotes the readiness of the Military Services to defend the United States.

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## **SECTION 1: GENERAL ISSUANCE INFORMATION**

### **1.1. APPLICABILITY.**

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

### **1.2. POLICY.**

Service members must maintain the highest standards of conduct, performance, and appropriate accountability in protecting the welfare, security, and liberty of the United States and their fellow citizens. Violations of this policy may result in disciplinary, administrative, or other appropriate action as provided for in Section 976 of Title 10, United States Code, or otherwise authorized by law or regulations.

## **SECTION 2: RESPONSIBILITIES**

### **2.1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.**

The Under Secretary of Defense for Personnel and Readiness establishes policies and prescribes procedures and guidelines in accordance with this issuance.

### **2.2. SECRETARIES OF THE MILITARY DEPARTMENTS.**

The Secretaries of the Military Departments, within their respective Military Department:

- a. Ensure compliance with this issuance.
- b. Establish policies and procedures to implement this issuance.

## SECTION 3: GENERAL PROVISIONS

### 3.1. PROHIBITED ACTIVITIES.

Pursuant to Section 976 of Title 10, United States Code:

- a. A Service member, knowing of the activities or objectives of a particular military labor organization, may not:
  - (1) Join or maintain membership in such an organization; or
  - (2) Attempt to enroll any other Service member as a member of such an organization.
- b. No person on a military installation, and no Service member, may:
  - (1) Enroll another Service member in a military labor organization; or
  - (2) Solicit or accept dues or fees for such an organization from a Service member.
- c. No Service member, and no civilian officer or employee of the DoD, may:
  - (1) Negotiate or bargain on behalf of the United States concerning the terms or conditions of the military service of Service members with any person who represents or purports to represent Service members.
  - (2) Permit or authorize the use of any military installation for any meeting, march, picketing, demonstration, or any other similar activity, that is for the purpose of engaging in any activity prohibited by this issuance.
- d. No person on a military installation and no Service member may organize, attempt to organize, or participate in any strike, picketing, march, demonstration, or any other similar form of concerted action involving Service members, that is directed against the U.S. Government and intended to induce any civilian officer or employee, or any Service member, to:
  - (1) Negotiate or bargain with any person concerning the terms or conditions of the military service of any Service member;
  - (2) Recognize any military labor organization as a representative of individual Service members, regarding any complaint or grievance of any such member related to the terms or conditions of the military service of such a Service member; or
  - (3) Make any change with respect to the terms or conditions of the military service of individual Service members.
- e. No person may use any military installation for any meeting, march, picketing, demonstration, or any other similar activity, that is for the purpose of engaging in any activity prohibited by this issuance.

### **3.2. REPRESENTATION.**

A military labor organization may not represent, or attempt to represent, any Service member:

- a. Before any civilian officer or employee, or any other Service member; or
- b. Regarding any grievance or complaint of any such member related to the terms or conditions of the military service of Service members.

### **3.3. FACTUAL DETERMINATIONS.**

Guidelines for making factual determinations as to whether an organization is a military labor organization are specified in this paragraph.

a. In determining whether an organization is a military labor organization, whether a person is a member of a military labor organization, or whether such a person or organization is in violation of any provision(s) of this issuance, the information specified in this paragraph may be evaluated.

(1) The history and operation of the organization (to include its constitution and bylaws, if any); or

(2) The person in question, along with any evidence of the conduct constituting a prohibited act.

b. In determining whether the commission of a prohibited act by a person can be imputed to the organization, examples of factors that may be considered include:

(1) The frequency of the prohibited act.

(2) The position in the organization of the person(s) committing the prohibited act.

(3) Whether the commission of the prohibited act was:

(a) Known by the leadership of the organization.

(b) Condemned or disavowed by the leadership of the organization.

c. Any information about person(s) and organization(s) not affiliated with the DoD that are needed to make the determinations required by this issuance must:

(1) Be gathered pursuant to DoD Directive 5200.27.

(2) Not be acquired by counterintelligence or security investigative personnel. The organization itself will be considered a primary source of information.

### 3.4. ACTIVITIES NOT COVERED BY THIS ISSUANCE.

This issuance does not:

a. Limit the right of any Service member to:

(1) Join or maintain membership in any lawful organization or association that does not constitute a military labor organization (as defined in this issuance);

(2) Present complaints or grievances concerning the terms or conditions of their military service, in accordance with established military procedures;

(3) Seek or receive information or counseling from any source;

(4) Be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

(5) Petition Congress for redress of grievances; or

(6) Take other administrative action(s) to seek administrative or judicial relief, pursuant to applicable laws and regulations.

b. Prevent:

(1) Commanders or supervisors from giving consideration to the views of any Service member(s) that are presented:

(a) Individually; or

(b) As a result of participation in command-sponsored or authorized:

1. Advisory councils;

2. Committees; or

3. Organizations.

(2) Any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities, with respect to the terms or conditions of civilian employment.

## GLOSSARY

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

<b>TERM</b>	<b>DEFINITION</b>
<b>civilian officer or employee</b>	Defined in Section 2105 of Title 5, United States Code.
<b>Service member</b>	A member of:  The Military Services who is serving on active duty;  The National Guard serving on full-time National Guard duty; or  A Reserve Component while performing inactive duty training.
<b>military labor organization</b>	Any organization that engages in or attempts to engage in:  Negotiating or bargaining with any civilian officer or employee, or with any Service member, on behalf of Service members, concerning the terms or conditions of the military service of such Service members;  Representing individual Service members before any civilian officer or employee, or any Service member, in connection with any grievance or complaint of any such member related to the terms or conditions of the military service of such a Service member; or  Striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the U.S. Government and that is intended to induce any civilian officer or employee, or any Service member, to:  Negotiate or bargain with any person concerning the terms or conditions of the military service of any Service member;  Recognize any organization as a representative of individual Service members, in connection with complaints and grievances of such members related to the terms or conditions of the military service of such Service members, or  Make any change with respect to the terms or conditions of the military service of individual Service members.



<b>TERM</b>	<b>DEFINITION</b>
<b>military installations</b>	Includes installations, reservations, facilities, vessels, aircrafts, and other property controlled by the DoD.
<b>negotiation or bargaining</b>	<p>A process whereby a commander or supervisor, acting on behalf of the United States, engages in discussions with:</p> <p>A Service member or Service members (purporting to represent other such members); or</p> <p>An individual, group, organization, or association purporting to represent such members, for the purpose of resolving, bilaterally, the terms or conditions of military service.</p>
<b>terms or conditions of military service</b>	<p>Terms or conditions of military compensation or duty; to include, but not limited to:</p> <p>Wages;</p> <p>Rates of pay;</p> <p>Duty hours;</p> <p>Assignments;</p> <p>Grievances; or</p> <p>Disputes.</p>

## **REFERENCES**

DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008

United States Code, Title 5, Section 2105

United States Code, Title 10, Section 976