



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

October 20, 2021

### Memorandum for Heads of Executive Departments and Agencies

From: Kiran A. Ahuja, Director

Subject: Guidance on Implementation of EO 14025: Highlighting Bargaining Unit Employee Rights to Join a Union and Other Rights

On April 26, 2021, President Biden issued Executive Order (EO) 14025, Worker Organizing and Empowerment. On October 20, 2021, the U.S. Office of Personnel Management (OPM) issued [guidance on EO 14025](#) regarding actions agencies can take related to the hiring and on-boarding process in support of the President's goals to "encourage worker organizing and collective bargaining."

OPM is issuing periodic guidance on actions federal agencies can take to encourage worker organizing and collective bargaining consistent with the requirements of the Federal Service Labor-Management Relations Statute (FSLMRS). This memorandum addresses some actions agencies can take related to **employee rights to join the union and ways to engage with their union.**

OPM periodically receives inquiries from federal employees who are unaware they are represented by a labor union or seeking assistance in contacting a union representative in their agency. Therefore, OPM believes that actions can be taken to ensure federal employees are aware of their bargaining unit status, the rights afforded to them under the FSLMRS, and how employees can engage with their union.

In support of the policies of EO 14025, agencies are strongly encouraged to implement the following actions at the earliest opportunity:

1. Provide notice to bargaining unit employees of their rights under the FSLMRS on a quarterly or biannual basis. This can occur in addition to or in conjunction with the Weingarten Rights notice as required by 5 U.S.C. Chapter 71, Section 7114(a)(2)(B). Refer to your agency collective bargaining agreement regarding Weingarten rights and other employee rights under the FSLMRS.
2. Any notification to bargaining unit employees regarding their rights under the FSLMRS should highlight their rights to join a union and the contact information of their union representative. We have included a recommended template which agencies could use for this purpose. This template is similar to the template OPM recommends agencies provide to new hires during the on-boarding process.

The attached questions and answers provide additional guidance for Federal agencies and employees on the above actions which support the policies of EO 14025. Agencies should consult with agency human resources offices and legal counsel to determine any collective bargaining obligations. Agencies are strongly encouraged to work with their unions in implementing these recommendations.

### **Additional Information**

Agency headquarters-level human resources offices may contact OPM at [awr@opm.gov](mailto:awr@opm.gov) with additional questions. Agency field offices should contact their appropriate headquarters-level agency human resources offices.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs and Human Resources Directors

Attachments:

- 1) Notice of Bargaining Unit Status and Rights
- 2) FAQs – Union Membership

## Individual Employee Rights Under the Federal Service Labor-Management Relations Statute

Dear *Insert Employee Name*,

*Insert Agency* recognizes the rights afforded to employees under the Federal Service Labor-Management Relations Statute (“The Statute”) to bargain collectively, organize and to participate in any labor organization of their choosing.

As a bargaining unit employee, this notice is to inform you of these rights and to provide you with your labor organization contact information.

### Employee Rights

5 U.S.C. §7102 provides:

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such rights includes the right:

- 1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and
- 2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

5 U.S.C. §7114, in part, provides:

(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at--

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if--

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

## Individual Employee Rights Under the Federal Service Labor-Management Relations Statute

*Insert Labor Organization, Insert Local Number* has been certified by the Federal Labor Relations Authority as your exclusive representative.

- *Insert Representative Name*  
*Phone Number*  
*Email Address*  
*Website* (if applicable)

### Union Membership

As provided by the Statute, you have the right to join or to refrain from joining the union. If you wish to join (i.e. become a dues-paying member of the union), you may use Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues, to join the union (attachment). The completed form is a request that labor organization dues be deducted from your pay and to notify your labor organization of the deduction. You will submit your completed form to *Insert Point of Contact Info*.

By providing this information, the agency is neither encouraging nor discouraging union membership.

For more information regarding your rights or the information contained in this letter, you may contact *Insert Labor Organization Representative* or your local human resources office.

### References

- [FLRA](#)
- [The Statute](#)
- [SF-1187](#)
- *Insert Link to Agency Labor Management Relations Site*, if applicable

## **Frequently Asked Questions Employee Rights to Union Membership**

### **1) Why is OPM highlighting bargaining unit employee rights to join a union?**

By supporting the President's policy in Executive Order (EO) 14025 to encourage worker organizing and collective bargaining, the Federal government is highlighting the positive impact that unions have in all workplaces.

[EO 14025 on Worker Organizing and Empowerment can be found here.](#)

### **2) Who can join a union?**

Under the Federal Service Labor-Management Relations Statute (FSLMRS), many Federal government bargaining unit employees are eligible for union membership if there is a union at their worksite. However, not all federal employees are covered by bargaining units or eligible to be represented by a union. Employees should consult with their agency's human resources office to determine their bargaining unit status.

### **3) How do I join a union?**

If you are a bargaining unit employee and wish to join a union (i.e., become a dues-paying member of the union), you may use Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues. Contact your agency's human resources office for more information.

### **4) Do I have to be a dues-paying member before I can be represented by the union?**

No. Federal bargaining unit employees have a right to representation by the exclusive representative regardless of their membership status. 5 U.S.C. § 7114 provides that "an exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership." Bargaining unit employees should contact their union representative to discuss any benefits of becoming a dues-paying member.

### **5) Can I encourage my bargaining unit coworkers to join the union?**

Yes, the solicitation of union membership is a right afforded to federal employees under 5 U.S.C. § 7102, which provides employees "the right to form, join, or assist any labor organization, or to refrain from such activity..." although 5 U.S.C. § 7131(b) specifically requires that such solicitation of membership "be performed during the time the employee is in a non-duty status."

For example, an employee on break (e.g., lunch) can solicit another employee who is on a break (e.g., lunch). The requirement to be in a non-duty status applies both to the employees being solicited and employees soliciting. See *Social Security Administration and American Federation of Government Employees*, [13 FLRA 409](#) (1983).