

Individual Employee Rights Under the Federal Service Labor-Management Relations Statute – including Weingarten Rights

NASA 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, you are receiving this notice 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 include 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.

Weingarten Rights

As indicated in 5 U.S.C. §7114(a)(2)(B), an examination refers to an interview or questioning concerning alleged misconduct where the employee has reason to believe that the employee may be subject to disciplinary action. Routine work-related conversations, instructions or guidance given by a supervisor, and performance reviews are examples of discussions that are not, in general, covered. However, a non-routine discussion between a supervisor and an employee can meet the definition of an examination from the outset, and the Weingarten Rights can arise during an otherwise routine work-related conversation, if the initial character of the discussion changes such that the employee has reason to believe discipline may result, and requests representation.

Individual Employee Rights Under the Federal Service Labor-Management Relations Statute (FSLMRS)

American Federation of Government Employees (AFGE), AFL-CIO and the International Federation of Professional and Technical Engineers (IFPTE), AFL-CIO & CLC have been certified by the Federal Labor Relations Authority to represent bargaining unit employees at the respective NASA centers. Please see Appendix A, Union Points of Contact Information to determine your appropriate union point of contact.

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 (SF) 1187, Request for Payroll Deductions for Labor Organization Dues, to join the union (see link under References below).

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 your appropriate union point of contact as identified in Appendix A.

If you have been a dues-paying union member for at least 1 year, and you wish to cancel payroll deductions of union dues, please refer to Question 10 in the Frequently Asked Questions section of this notice, and contact your appropriate union point of contact as identified in Appendix A. You may use SF 1188, Cancellation of Payroll Deductions for Labor Organization Dues, to cancel payroll deductions of union dues (see link under References below).

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 your appropriate union point of contact or your servicing Human Resources Office.

References

- [U.S. Federal Labor Relations Authority \(FLRA\)](https://www.flra.gov/) at: <https://www.flra.gov/>
- [5 U.S.C. §7102, Federal Service Labor-Management Relations Statute](https://www.flra.gov/resources-training/resources/statute-and-regulations/statute) at: <https://www.flra.gov/resources-training/resources/statute-and-regulations/statute>
- [Executive Order 14025, Executive Order on Worker Organizing and Empowerment](https://www.govinfo.gov/content/pkg/FR-2021-04-29/pdf/2021-09213.pdf) at: <https://www.govinfo.gov/content/pkg/FR-2021-04-29/pdf/2021-09213.pdf>
- [SF-1187, Request for Payroll Deductions for Labor Organization Dues](https://www.opm.gov/forms/pdf_fill/sf1187.pdf) at: https://www.opm.gov/forms/pdf_fill/sf1187.pdf
- [SF-1188, Cancellation of Payroll Deductions for Labor Organization Dues](https://www.opm.gov/forms/pdf_fill/sf1188.pdf) at: https://www.opm.gov/forms/pdf_fill/sf1188.pdf
- Appendix A, Union Points of Contact Information (See attachment)
- Frequently Asked Questions – Employee Rights to Union Membership and Union Dues Processing (See below)

Frequently Asked Questions on Employee Rights to Union Membership and Union Dues Processing

Note: The following frequently asked questions (FAQs) were developed in support of the policies under Executive Order 14025. The purpose of the FAQs is to provide agencies and employees with helpful information about processing dues payments for union membership. The subjects contained herein may be subject to collective bargaining. Agencies should review collective bargaining agreements and consult with agency human resources offices and legal counsel to determine any collective bargaining obligations. Agencies are strongly encouraged to collaborate with labor unions to ensure reliable and efficient processes regarding union dues.

1. 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. [Read EO 14025 on Worker Organizing and Empowerment.](#)

2. 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 [SF 1187, Request for Payroll Deductions for Labor Organization Dues](#) or any comparable form or process the agency and/or union uses.

Bargaining unit employees may contact their local union or the agency's human resources office

for more information on the appropriate form or process used in their agency for dues deduction. Employees should check with their local union regarding the full benefits of union membership.

3. 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 \(1983\)](#).

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 fair representation by the exclusive representative regardless of their membership status. [5 U.S. Code § 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.” However, a union's duty of fair representation only extends to matters within the union's powers and responsibilities as the exclusive representative of bargaining unit employees under the Federal Service Labor-Management Relations Statute (Statute). Thus, the duty of fair representation extends to matters concerning collective bargaining over terms and conditions of employment and the grievance/arbitration process under the labor contract, but not to claims by employees under other employment laws. See, e.g. *Antilles Consolidated Education Association, (OEA/NEA), San Juan, PR*, [36 FLRA 776\(1990\)](#); *AFGE, Local 1345, Fort Carson and AFGE*, [53 FLRA 1798 \(1998\)](#). A union, therefore, does not violate its duty of fair representation, when, for example, it provides legal representation or assistance to dues-paying members in such matters as preparing their wills or filing an EEOC complaint or an MSPB appeal, but not to employees who are in the bargaining unit but are not dues paying union members. See *National Treasury Employees Union v. Federal Labor Relations Authority*, 800 F.2d 1165 (D.C. Circ. 1986).

5. How quickly does my agency have to process my request for payroll deductions for labor organization dues?

While the law does not explicitly provide a specific time limit for an agency to process an employee's request that the agency make deductions from pay for union dues, the Federal Labor Relations Authority (FLRA) has held that such requests must be processed “expeditiously.” In *HHS, SSA and AFGE Local 1346*, [3 FLRA 264 \(1983\)](#), the FLRA found a failure to process dues withholding authorizations “expeditiously” violated [5 U.S. Code 7116\(a\)\(1\) and \(8\)](#) and emphasized that this failure was a violation even if the delay in processing is unintentional.

6. What happens if my agency doesn't expeditiously process my request for payroll deductions for labor organization dues?

If the agency does not expeditiously process a withholding authorization, the agency may be found guilty of an unfair labor practice and ordered by the Federal Labor Relations Authority to remit to the union an amount equal to the dues it should have withheld from your pay. If you have properly submitted a dues-withholding authorization and you believe your agency is failing to comply with it, you should notify your local HR office and your union without delay.

7. Can the agency delay the employee's request for dues allotment when the agency has a question of unit status or there is no agreement in place?

[5 U.S. Code § 7115\(a\)](#) provides that "if an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment." This requires the agency to honor the employee's request for dues withholding whether or not there is a collective bargaining agreement in place between the agency and the union representing the employee. If an agency has a reasonable disagreement with the union over whether an employee should be included in the bargaining unit, this may be resolved in "unit clarification" proceedings before the FLRA. Unit clarification decisions typically do not provide for the retroactive withholding or payment of union dues.

8. When an employee is temporarily placed in a position outside of the bargaining unit (e.g., reassignment, detail, or promotion), should agencies cease collecting dues? If so, can collection of dues begin automatically when the employee returns to the bargaining unit when the temporary departure is over or is the employee required to submit a new SF 1187 (or comparable form)?

Under [5 U.S. Code § 7115\(a\) and \(b\)\(1\)](#), an agency may not deduct union dues from the pay of an employee who is no longer in an appropriate bargaining unit and the bargaining agreement between the union and the agency no longer applies to that employee. This means that when an employee is detailed, reassigned, or promoted to a position outside of the bargaining unit, the agency is no longer authorized to make dues deductions on behalf of the union from the employee's pay and the deductions must stop. If an employee's departure is expected to be permanent, the employee must submit a new SF 1187 or other authorization upon returning to the bargaining unit for dues deductions to resume. *American Federation of Government Employees, Local 2058 and U.S. Department of the Interior, National Park Service, Independence National Historical Park, Philadelphia*, [68 FLRA 676 \(2015\)](#). However, when an employee returns to the bargaining unit after an absence that is expected to be temporary, such as a detail, the agency may resume deducting union dues without receiving a new SF 1187 or other authorization. It is also permissible for an agency and a union to negotiate a requirement in their collective bargaining agreement that union dues deductions resume automatically for employees who return from absences that were intended to be temporary. *See Lodge 2424, IAM and Department of the Army, Aberdeen Proving Ground, MD*, [25 FLRA 194 \(1987\)](#).

9. Can an agency recoup dues overpayment from the union by reducing subsequent remittances to the union?

An agency may not recoup overpayments by reducing subsequent remittances to the union of dues deducted from employee pay. In *Lowry Air Force Base, Denver, CO and AFGE, Local 1974*, [31 FLRA 793](#) (1988), the FLRA held that an agency violates The Statute if it reduces a remittance of dues to a union in order to recoup an overpayment. “We will interpret section 7115 of The Statute to impose an absolute duty on agencies to honor the current assignments of unit employees by remitting regular and periodic dues deducted from their accrued salaries to their exclusive representatives. Therefore, under section 7115, an agency is authorized only to allot dues, not to set off.”

10. If I become a dues-paying union member, will I be able to cancel deductions from my pay for unions dues at any time?

Under 5 § USC 7115(a), a written assignment authorizing an agency to deduct union dues from your pay may not be revoked for a period of one year except under the circumstances described in Question seven (e.g., reassignment to a position outside the bargaining unit). [5 CFR 2429.19](#) provides that “after the expiration of the one-year period during which an assignment may not be revoked under 5 U.S.C. § 7115(a), an employee may initiate the revocation of a previously authorized assignment at any time that the employee chooses.” This regulation applies to dues deductions that were authorized on or after August 10, 2020, which is the effective date of the regulation.

For dues assignments that were authorized prior to August 10, 2020, bargaining unit employees will be expected to follow the terms of the collective bargaining agreement that applied to the revocation of dues deduction prior to August 10, 2020. This may require, for example, that you submit a request to cancel your dues deduction during an annual window period. In addition, like all government-wide regulations, 5 CFR 2429.19 is subject to the constraints of [5 U.S. Code § 7116\(a\)\(7\)](#) which generally means that the revocation requirements already contained in a collective bargaining agreement in effect prior to August 10, 2020, will continue to apply until the end of the current contract term. Please consult with your agency's human resources office regarding what is required for your bargaining unit.

In order to request cancellation of dues deduction, bargain unit employees may use [Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues](#) or any comparable form or process the agency and/or union uses. Bargaining unit employees may contact their local union or the agency's human resources office for more information on the appropriate form or process used in their agency.

For questions concerning this notice, contact:
NASA Shared Services Center (NSSC) Customer Contact Center
1-877-677-2123 (1-877-NSSC123) or nssc-contactcenter@mail.nasa.gov

APPENDIX A

American Federation of Government Employees (AFGE), AFL-CIO

Goddard Space Flight Center – Wallops Flight Facility

American Federation of Government Employees (AFGE),

AFGE Local 1923, AFL-CIO

Bargaining Unit Status Code (BUS): 1575

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Johnson Space Center

American Federation of Government Employees (AFGE),

AFGE Local 2284, AFL-CIO

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Kennedy Space Center

American Federation of Government Employees (AFGE),

AFGE Local 513, AFL-CIO

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Langley Research Center

American Federation of Government Employees (AFGE),

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Marshall Space Flight Center

American Federation of Government Employees (AFGE),

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Internal Federation of Professional and Technical Engineers (IFPTE), AFL-CIO & CLC

Ames Research Center

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Glenn Research Center

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Goddard Space Flight Center

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Headquarters

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Marshall Space Flight Center

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