

Labor Management Relations

FOR THE GOVERNOR:

WILLIAM H. WADE II
Major General
The Adjutant General



OFFICIAL:

STUART D. EWING
Captain, CA ANG
Human Resources Officer

Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

History. None

Summary of Changes. This regulation establishes policy and procedures for Labor Management Relations for the California National Guard technician program. It replaces the Technician Personnel Manual, Chapter 12, dated Mar 2000.

Content (listed by paragraph number)

	Paragraph
Purpose.....	1
Scope.....	2
Policy.....	3
Responsibilities of the LRS.....	4
Responsibilities of the LRA	5
Technician's Rights.....	6
Information to Technicians	7
Standards of Conduct for Labor Organizations.....	8
Consultation Rights.....	9
Responsibilities of Labor Management	10
Consultation and Negotiation	11
Official Time	12
Scope of Consultation.....	13
Impasse in Negotiations.....	14
Negotiation of Agreements.....	15
Use of Agency Facilities.....	16
Internal Business of Technician Organizations	17
Unfair Labor Practices.....	18
Definitions	19

1. Purpose.

- a. The purpose of this regulation is to provide California National Guard policy and standing guidelines for all technicians of the California National Guard with their relationship with labor organizations.
- b. The authority for Labor-Management Relations (LMR) in the Federal sector is derived from Chapter 71 of the Civil Service Reform Act (CSRA) of 1978. Before the Civil Service Reform Act of 1978, participation in union activities was established by Executive Order and administered through the Assistant Secretary of Labor and the Civil Service Commission (now the Office of Personnel Management). The Federal Labor Relations Authority (FLRA) was established by the Civil Service Reform Act (CSRA) as an independent administrative and appellate authority with a wide range of labor relations' responsibilities in the Federal sector.
- c. The Federal Labor-Management Relations Program is applicable to National Guard Technicians while in a technician status, which is employment pursuant to 32 United States Code (USC) 709. In the National Guard, bargaining unit technicians are free to join and participate in recognized labor organizations.

2. Scope.

- a. Technicians Covered: Under the Federal Service Labor-Management Relations Statute, Section 7112, the Authority has determined that all categories of the federally paid, excepted, and competitive technicians not holding supervisory or managerial positions are covered.
- b. Technicians Not Covered: Under the Federal Service Labor-Management Relations Statute, Section 7112, the following individuals are excluded from bargaining unit status: Managers and supervisors, technicians engaged in intelligence work which directly effects national security, technicians engaged in personnel work in other than a purely clerical capacity, technicians engaged in administering the Federal Labor Relations Program, and confidential technicians. Any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by the agency, whose duties directly affect the internal security of the agency, and any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization -
 - (1) Which represents other individuals to whom such provisions apply.
 - (2) Which is affiliated directly or indirectly with an organization which represents other individuals to whom such provisions apply.

3. Policy.

- a. Technicians Participation: The well-being of technicians and efficient administration of the California National Guard benefit by providing technicians an opportunity to participate in the implementation of personnel policies and practices affecting the conditions of their employment. The participation of technicians should be improved through the maintenance of constructive and cooperative relationships between the labor organization and management officials.
- b. Recognizing and Working with Unions: The policy of the Department of Defense, the National Guard Bureau and the agency (California National Guard) is to recognize and work with labor organizations and matters of concern for the technicians they represent, and to place primary reliance on informed settlement of any differences or disputes at the earliest stage and the lowest level possible by discussion between management officials and representatives of labor organization.

4. Responsibilities of the Labor Relations Specialist (LRS).

- a. Plans and formulates agency policies and procedures through and for the Adjutant General concerning the California National Guard Labor-Management Relations Program.
- b. Serves as the liaison with the labor organizations and represents the Adjutant General in consultation with any labor organization holding national consultation rights or national exclusive recognition; obtains and considers the views of such organizations on proposed changes, or revisions of personnel policies. The LRS acts as facilitator to management and labor organizations when disputes are at the lower levels.
- c. Provides agency leadership by acting for the Adjutant General in the establishment of a positive and effective Labor-Management Relations Program at all levels of the agency.
- d. Appraises the effectiveness of the California National Guard Labor-Management Relations Program and makes policy changes that may be required. An effective program will be one where management and labor have a constructive and positive relationship, keeping focused on the effectiveness and efficiency of the agency and its work.
- e. Additional Responsibilities of the Labor Relations Specialist:
 - (1) Regulatory Advice: Furnishes regulatory advice in all matters arising under the California National Guard Labor-Management Relations Program.

(2) Representation before Authority: Where representation is required, represents the California National Guard in formal administrative proceedings before the Authority or Panel.

(3) Participation in Consultations: Participates in consultations and negotiations between labor organizations and management officials.

(4) Provides Technical Advice: Furnishes management and supervisory officials with technical advice, assistance, and interpretation of labor management policies and regulations.

(5) Develops and Maintains a Sound Program: Provides staff assistance in developing and maintaining a sound program of effective labor management relations.

(6) Administers the State Conduct Management/ Adverse Actions.

5. Responsibilities of the Labor Relations Assistant (LRA).

Assist the LRS in planning and formulating policies; provides agency leadership while appraising the effectiveness of the program; provides regulatory advice, representation before authority, participates in consultations, provides technical advice, develops and maintains a sound program; and, administers the conduct management/adverse actions.

6. Technician's Rights.

Exclusive recognition of a labor organization does not preclude technicians, regardless of whether or not they are members of the labor organization, from processing a grievance or appeal based on rights established under applicable laws, rules, regulations, or established agency policy. Nor, does it preclude technicians from choosing their own representatives in a grievance or appellate action, when they do not choose to use the applicable negotiated grievance procedure. Technicians may present grievances arising under the agreement without the interventions of the exclusive representative, so long as the exclusive representative is given an opportunity to be present at the time of the adjustment, and the adjustment is not inconsistent with the terms of the agreement.

7. Information to Technicians.

All technicians of the California National Guard shall be informed of their rights and obligations under the provisions of "Title V." All technicians will be provided access to a copy of the existing labor agreements.

8. Standards of Conduct for Labor Organization.

Under the Federal Service Labor-Management Relations Statute, Section 7120, the agency shall accord recognition to a labor organization that is free from corrupt influences and influences opposing basic democratic principles.

9. Consultation Rights.

a. According to the Federal Service Labor-Management Relations Statute, Section 7117:

(1) A labor organization which is the exclusive representative of a substantial number of technicians, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

(2) A labor organization having consultation rights under Section 7117 of the Statute shall:

(a) Be informed of any **substantive change** in conditions of employment proposed by the agency.

(b) Be permitted reasonable time to present its views and recommendation(s) regarding the changes.

(3) If any views or recommendation(s) are presented under Section 7117 of the statute to an agency by any labor organization:

(a) The agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendation are presented.

(b) The agency shall provide the labor organization the reasons for taking the final action.

10. Responsibilities of Labor-Management.

a. When a labor organization has received the Certification of Exclusive Representative (the Union), it is viewed as the exclusive representative of the technicians in the unit, and is entitled to act for and to negotiate agreements covering all technicians of the unit. The union is responsible for representing the interests of all technicians in the unit without discrimination and without regard of labor organization membership. The labor organization shall be given

the opportunity to be represented at formal discussions between management and any technician in the unit concerning grievances, or other matters effecting general working conditions of the technicians in the unit. The organization has the right with respect to unit technicians to:

(1) Be consulted with regarding personnel policies and to meet and confer at reasonable times with respect to personnel policies and practices and matters effecting working conditions.

(2) Be the union representative at negotiated grievance procedures and to be the exclusive representative of a technician when that technician chooses the use of a negotiated grievance procedure.

b. Technician Self-Representation: Technicians may present their own grievance without the intervention of the exclusive representative so long as the adjustment is not inconsistent with the terms of the agreement, and the exclusive representative has been given an opportunity to be present at the adjustment.

11. Consultation and Negotiation.

a. Personnel Policies & Working Conditions: Consultation and negotiation are a means of providing labor organizations a voice in the development and implementation of California National Guard personnel policies and procedures, and policies governing general working conditions. Individual grievances and complaints are properly handled within the agency grievance procedures or negotiated grievance procedures and are not appropriate subjects for consultation or negotiation.

b. Obligation to Meet in Good Faith: Both management officials and representatives of labor organizations have an obligation to consult and negotiate diligently and in good faith over matters deemed appropriate for negotiation. Decisions reached as a result of consultation or negotiation must be made in consideration of their effect on the California National Guard's mission, with full regard to the interest of the technician concerned.

12. Official Time.

Official Time & Consultation: Technicians who represent a recognized labor organization may be allowed a reasonable amount of official time to consult with management on personnel policies, or practices and policies governing general working conditions as negotiated in their individual agreement. Official time, although authorized, may only be taken with supervisory approval. All official time usage will be reported to the LRS or LRA by the end of each fiscal year.

13. Scope of Consultation.

a. Matters Subject to Consultation or Negotiation: Subjects appropriate for consultation and negotiation with organizations having exclusive recognition must be within the administrative discretion and authority of the Adjutant General, California National Guard, and be permissible by applicable laws and regulations, Executive Orders, Office of Personnel Management regulations, and National Guard policy. In general, negotiations include all processes involving preliminary negotiations of ground rules; all aspects of negotiations; mediation and impasse resolution procedures. Issues within the jurisdiction of local management shall be taken up with, and adjusted at the activity level whenever possible.

b. Matters not Subject to Consultation or Negotiation: Recognition of whatever type shall not require California National Guard officials to consult with any labor organization with respect to any matter not within the administrative authority of the activity head; or which extends to such areas of discretion and policy as the mission of the California National Guard; its budget; organization; the number of technicians; and the number, types and grades of positions or technicians assigned to an organization unit, the technology of performing its work or its internal security practices.

14. Impasse in Negotiations.

a. Techniques for Resolution: Every effort will be made to resolve all issues at the local level. Methods to be employed are those found in the current agreement between the California National Guard and the Labor Organization.

b. Grievance and Arbitration Resolutions: Methods to be employed in grievance and arbitration resolutions are those found in the current agreement between the California National Guard and the applicable or appropriate Labor Organization.

15. Negotiation of Agreements.

a. Meeting to Effectuate Agreement: The California National Guard and the Labor Organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies, practices, and matters effecting working conditions so far as may be appropriate under applicable laws and regulations. This includes policies set forth in Federal Personnel Manual, published agency policies and regulations, or other controlling agreements at a higher level (National Guard Bureau or Title V.)

They may negotiate an agreement, or any question arising there under; determine appropriate techniques consistent with this issuance; assist in such negotiations; and, execute a written agreement or memorandum of understanding.

b. **Mandatory Provisions:** Each agreement entered into with a labor organization shall contain, as a minimum:

(1) A statement identifying the parties to the agreement and covering their mutual rights and obligations under its terms.

(2) A statement citing the authority for the agreement, i.e., Title V and these policies.

(3) A specific definition of the unit covered by the agreement.

(4) The extent and duration of the agreement, including provisions for its amendment.

(5) Provisions for a method of resolving disputes or disagreements.

(6) A grievance procedure that shall be limited to matters concerning the interpretation of an application of the existing agreement.

(7) Provisions for final authority approval of this agreement, its amendments or termination.

c. **Voluntary Membership in Union and in Dues Withholding:** Nothing in the agreement shall require a technician to become, or to remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

16. Use of Agency Facilities.

a. **Posting Notices and Literature:** Bulletin boards may be provided for the posting of notices and literature of the labor organization. The labor organization agrees that these bulletin boards are furnished for the convenience of the union and that the union is solely responsible for the materials posted on them.

b. **Distribution of Literature.** Distribution of literature by representatives of labor organizations will not be made in work areas or during any duty hours.

17. Internal Business of Technician Organizations.

Solicitation of membership or dues, and other internal business of a labor organization shall be conducted during the **non-duty hours** of the technicians concerned. Technicians outside of their working hours, may solicit membership, or collect membership dues on California National Guard premises provided such activities do not interfere with California National Guard's operation and are not conducted during the official working hours of the technicians contacted. Non-technician representatives of the labor organization, with the prior approval of the agency head or the designated representative (Directorate for Human Resources) may hold organizational meetings to solicit membership on California National Guard's premises subject to these same restrictions. Break periods are a part of **duty hours** and therefore, solicitation for membership is prohibited.

18. Unfair Labor Practices.

a. California National Guard's Management shall not:

(1) Interfere with, restrain, or coerce a technician in the exercise of the rights assured by this issuance, the negotiated agreement between the California National Guard and the labor organization or the safeguards assured by Title V.

(2) Encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment.

(3) Sponsor, control, or otherwise assist a labor organization, except that the California National Guard may furnish customary and routine services and facilities when consistent with the best interests of the California National Guard, its technicians, and the labor organization when the facilities are furnished, if requested to the labor organizations.

(4) Discipline or otherwise discriminate against a technician because he has filed a complaint or given testimony under Title V.

(5) Refuse to accord appropriate recognition to a labor organization qualified for such recognition.

(6) Refuse to consult, confer, or negotiate with a labor organization as required by Title V.

b. A Labor Organization shall not:

(1) Interfere with, restrain, or coerce a technician in the exercise of his rights under Title V.

(2) Attempt to induce California National Guard's management/supervisory personnel to coerce a technician in the exercise of his rights under Title V.

(3) Coerce, attempt to coerce, discipline, fine, or take other economic sanctions against a member of the labor organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States.

(4) Call or engage in a strike, work stoppage, or slowdown; picket the California National Guard labor management; dispute or condone any such activity by failing to take positive action to prevent or stop it. Informational picketing may be permitted as long as it does not interfere with National Guard activities.

(5) Discriminate against a technician with regard to the terms or conditions or membership because of race, color, creed, sex, age or national origin.

(6) Refuse to consult, confer, or negotiate with the California National Guard as required by Title V.

c. Formal discussion: A "Formal Discussion" occurs whenever a member of management conducts a meeting that includes one or more technicians, has a formalized agenda, and the meeting involves personnel policies, practices, or working conditions.

(1) If a formal discussion is anticipated, the union is entitled to have a representative present and to receive advanced notification concerning the time and place of the meeting.

(2) Formal discussions are not one-on-one meetings that are a daily part of the supervisor/subordinate relationship. For example, a discussion with a technician concerning his or her performance standards and critical elements is not a formal discussion.

d. Weingarten Right: A technician has a right to be represented by the labor organization at any examination of the employee by a representative of the agency or employer in connection with an investigation if the technician:

(1) Reasonably believes that the examination may result in disciplinary action against the employee.

(2) The technician requests representation.

e. Right of Representation: Technicians in bargaining units must be informed annually of their right to union representation as set forth in 5 USC 7114 (a) (2) (B).

19. Definitions.

Activity - "Activity" means the California National Guard Headquarters subordinate Headquarters, (both Army and Air National Guard), National Guard Armories, Army Aviation Support Facilities, Combined Services Maintenance Shops, as well as other California National Guard organizations consistent with the term "activity".

Advance Notice - In general, an announcement of an intention to carry out a certain action, given to an affected or interested party in sufficient time to prepare for the action.

Agency Administrative Grievance Procedure - In the Federal Government, a systematic agency procedure for the resolution of grievances from employees who are not in bargaining units. The Office of Personnel Management's regulation specifies the basic requirements for each agency's administrative grievance procedure.

Authority - "Authority" means the Federal Labor Relations Authority described in Section 710(a) of Title V of the Statute.

Certification - The determination by the Federal Labor Relations Authority of the results of an election (Certification of Election Results) or the recognition of the labor organization by the Federal Labor Relations Authority as the exclusive representative based on the mandatory procedure for determining such a representative (Certification of Representative).

Certification Bar - From the date of the certification of a union as the exclusive representative, a one-year period during which that union cannot be challenged by another labor organization. This bar protects a union from challenge in the absence of a negotiated agreement.

Civil Service Reform Act of 1978 (CSRA) - Legislation enacted in October 1978 for the purpose of reforming and upgrading the Federal Civil Service System and improving efficiency and quality of public service. The Civil Service Reform Act of 1978 gave to management the tools and flexibilities it needed to improve operations. The new law also guaranteed protection of the basic rights of Federal employees. In the labor-management relations area, the Civil Service Reform Act of 1978 was important because it gave Federal employees legal basis for their right to organize, bargain collectively, and participate through labor unions in decisions which affect their working conditions.

Conditions of Employment - Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, effecting working conditions, except that such term does not include policies, practices, and matters:

(a) Relating to political activities prohibited under Subchapter III of chapter 73 of the Federal Service Labor Management Relations Statute.

(b) Relating to the classification of any position.

(c) To the extent such matters are specifically provided for by Federal statute.

Confidential Employee - An employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor management relations.

Consultation - An obligation on the part of employers to consult the labor organization on particular issues before taking action on them. In the Federal Government, consultation refers only to the duty owed by agencies to labor organizations which have been accorded national consultation rights. That duty involves informing the union of substantive changes in conditions of employment, giving the union time to present its views and recommendations, considering those views and recommendations, and giving the union written reasons for the final action.

Dues - Fees and assessments.

Exclusive Representative - Any labor organization which:

(a) Is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of the statute.

(b) Was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit on the basis of an election.

(c) Continues to be so recognized in accordance with the provisions of the Federal Service Labor-Management Relations Statute.

Executive Order (EO) 10988 - Issued in 1962 by President Kennedy, setting the framework for collective bargaining in the Federal Government. The Order defined the scope of participation by unions in determining personnel policies and working conditions not established by statute. Executive Order 10988 was superseded by Executive Order 11491 in October 1969.

Executive Order (EO) 11491 (As Amended) - issued in 1969 by President Nixon, setting forth the parameters and general guidelines for bilateralism in the Federal Labor-Relations Program. It established administrative bodies to carry out the Order and also provided for unfair labor practice procedures; recognition of labor organizations; and, standards of conduct for labor organizations before the effective date of Title V.

Federal Labor Relations Authority (FLRA) - An administrative body empowered by Title V of the Civil Service Reform Act of 1978 to provide leadership in Federal Service labor-management relations matters by establishing policies and guidance.

Federal Mediation and Conciliation Service (FMCS). - An independent Federal agency which provides mediators to assist the parties involved in negotiations, or in a labor dispute, in reaching a settlement; provides lists of suitable arbitrators or request; and, engages in various types of "preventive mediation."

Federal Service Impasses Panel (FSIP) - Organizational entity within the Federal Labor Relations Authority which resolves bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for the settling of impasses or it may direct settlement of the impasse itself.

Formal Discussion - Discussions between an agency representative(s) and a bargaining unit employee(s) or the employer's representative(s), on an employee's grievance, or personnel practice or policy or other conditions of employment which affects bargaining unit employees. The union has the right to be present at these discussions.

Grievance - Complaints:

a. By any employee concerning any matter relating to the employment of the employee.

b. By any labor organization concerning any matter relating to the employment of any employee.

c. By any employee labor organization, or agency concerning:

(1) The effect or interpretation, or a claim of breach of a collective bargaining agreement.

(2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation effecting conditions of employment.

Labor Organization - "Labor Organization" is defined as an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include:

- a. An organization which by its constitution, bylaws, tacit agreement among its members or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status, or handicapping condition.
- b. An organization that advocates the overthrow of the constitutional form of government of the United States.
- c. An organization sponsored by an agency.
- d. An organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike.

Long-term Contract - Generally, a collective bargaining agreement with a duration of two or three years or longer, as distinguished from a one-year contract.

Management Official - An individual employed by an agency in a position the duties and responsibilities of which require or authorized the individual to formulate, determine, or influence the policies of the agency.

Mediation - A procedure by which an impartial third party (a mediator) is used to settle disputes. The mediator assists in resolving the dispute by attempting to find a solution satisfactory to both parties in a dispute but renders no binding decisions. In the Federal Government, mediation is required before impasses can be referred to the Federal Service Impasses Panel.

National Consultation Rights - In the Federal Government, a union, which has exclusive recognition of an agency-wide basis or is the exclusive representative of a substantial number of agency employees, is granted consultation rights. To fulfill these rights, the agency must inform the union of substantive changes in conditions of employment, give the union time to present its views and recommendations, consider those views and recommendations, and give the union written reasons for the final action.

Negotiability - "Negotiability" refers to whether a given topic is subject to bargaining between the agency and the union. The Federal Labor Relations Authority makes final decisions on whether a subject is negotiable.

Negotiated Grievance Procedure - A systematic procedure agreed to by the negotiating parties for the resolution of grievances. The negotiated grievance procedure is applicable only to employees in the bargaining unit.

Open Period (Window Period) - In the Federal Government, the forty-five (45) day period (nor more than 105 days or less than 60 days prior to contract expiration) when a union holding exclusive recognition is subject to challenge by a competing union or by employees in the bargaining unit who no longer desire representation by the recognized union. An open period becomes available near the expiration date of a contract or three years after the effective date of the contract whichever occurs first.

Panel - The Federal Service Impasses Panel described in Section 7119 of the statute.

Past Practice - Existing practices sanctioned by use and acceptance, that is not specifically included in the collective bargaining agreement.

Professional Employee -

a. An employee engaged in the performance of work that requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or from an apprenticeship; from training obtained in the performance of routine mental, manual, mechanical, or physical activities requiring the consistent exercise of discretion and judgment in its performance; which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and, which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time.

b. An employee who has completed the courses of specialized intellectual instruction and study described above and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee also described above.

Representation Election (Election, Recognition Election) - Election conducted to determine whether the employees in an appropriate unit desire a labor organization to act as their exclusive representative.

Representational Activity - Activities performed by a union (or the union's representative) on behalf of the employees the union represents. Such activities include meeting and negotiating with management, investigating problems, handling grievances, and policing the terms of the collective bargaining contract.

Standards of Conduct for Labor Organizations - In the Federal Government, those standards which govern internal democratic practices and fiscal responsibility, and procedures to which a labor organization must adhere to receive recognition under the law. Assistant Secretary of Labor for Labor-Management Relations maintains responsibility for making known and enforcing standards of conduct for labor organizations in the Federal Government and the private sector.

Statute - A law.

Supervisor - An individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. The term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

Technician - "Technician" for the purposes of the unit(s) granted Exclusive Recognition, means an accepted or competitive technician of the California National Guard who is eligible to be a member of a labor organization.

Unfair Labor Practice - Action by either an employer or union which violates the provisions of national or state labor relations laws, such as refusal to bargain in good faith.

Weingarten Right - Name taken from a private sector case. Refers to the right of a bargaining unit employee to be represented by the union under specific circumstances. That right exists when:

- a. The employee is examined in an investigation (an investigatory examination) conducted by an agency representative.
- b. The employee reasonably believes disciplinary action against him or her may result.
- c. The employee requests union representation.