



**DEPARTMENT OF DEFENSE EDUCATION ACTIVITY
HEADQUARTERS
4800 MARK CENTER DRIVE
ALEXANDRIA, VA 22350-1400**

November 5, 2018

MEMORANDUM FOR THE RECORD

FROM: DIRECTOR, DEPARTMENT OF DEFENSE EDUCATION ACTIVITY

**SUBJECT: Directive-Type Memorandum (DTM) 18-LMER-001 - Establishing Internal
Coordination Requirements for Negotiating Labor Agreements with DoDEA
Labor Organizations**

**References: DoD 1400.25-M, Volume 711, "Civilian Personnel Management System: Labor-
Management Relations," December 1, 1996
United States Code, Title 5**

Purpose. This DTM establishes internal management coordination and approval requirements for the negotiation of term and mid-term labor agreements, including Memoranda of Understanding (MOU) and Memoranda of Agreement (MOA), and all other negotiated agreements of any description made between the Department of Defense Education Activity (DoDEA) and labor organizations certified under Chapter 71 of Title 5, United States Code to represent DoDEA employees.

This DTM is effective November 5, 2018; it will be incorporated into a DoDEA issuance governing the Activity's world-wide labor relations program. This DTM will expire twelve (12) months from the date of signature.

Applicability. This DTM applies to the Office of the Director, DoDEA; the Principal Deputy Director and Associate Director for Academics, DoDEA; the Associate Director for Financial and Business Operations, DoDEA; the Chief of Staff, DoDEA; the Director for Student Excellence, DoDEA Americas Associate Director for Performance and Accountability (formerly the Director, Domestic Dependent Elementary and Secondary Schools, and Department of Defense Dependents Schools, Cuba (DDESS DoDDS-Cuba)); the Director for Student Excellence, DoDEA Europe (formerly the Director, Department of Defense Dependents Schools, Europe (DoDDS-E)); the Director for Student Excellence, DoDEA Pacific (formerly the Director, Department of Defense Dependents Schools, Pacific, and Domestic Dependent Elementary and Secondary Schools, Guam (DoDDS-P DDESS-Guam)); (referred to collectively in this Issuance as "DoDEA Region Directors for Student Excellence"); and all DoDEA region, district, community, and school leaders and support staff.

Definitions. See Glossary.

Policy. DoDEA's global multi-union environment requires a consistent and coordinated approach to its labor agreement negotiations. To ensure an enterprise approach to negotiations,

DoDEA is implementing the requirements below for the negotiations of labor agreements worldwide. These coordination and approval requirements will be implemented consistent with DoDEA's obligations under controlling authorities including, but not limited to, Chapter 71 of Title 5, United States Code, and Volume 711 of DoD 1400.25-M.,

Responsibilities. Each management official identified in or designated as an operation of the provisions of Attachment 1 of this DTM and who are engaged in collective bargaining will be held responsible for ensuring that labor agreements meet all statutory, regulatory, and policy requirements, support the mission, are in the public interest, and that budget impacts are analyzed as an integral part of the negotiation process.

Procedures. See Attachment 1.

Information Collection Requirements. This DTM may result in the collection of information due to its policy and procedures. Any collection of information must follow all applicable Federal, DoD, and DoDEA regulations, policies, and guidance.

Releasability. Cleared for public release. Available on the DoDEA Policy Website.


Thomas M. Brady
Director

Attachments:
As stated

ATTACHMENT 1

PROCEDURES

1. BARGAINING NOTICES.

a. Multiple Region Notices. All notices to or from labor organizations concerning collective bargaining matters must be coordinated with the Headquarters (HQ) Labor-Management and Employee Relations (LMER) Branch (HQ LMER) representatives for matters concerning more than one region or that are initiated by DoDEA HQ prior to issuance of notices by management to labor organizations and the start of any negotiations.

b. Single Region Notices. All notices to or from labor organizations concerning the implementation of the collective bargaining process whose impact will be confined to a single region or regional subdivision (e.g., district or school/complex) must be coordinated with the LMER Branch representatives in the appropriate region (Region LMER) prior to issuance of notices by management to labor organizations and the start of any negotiations.

2. DODEA NEGOTIATION LEADS. Either a designated LMER representative or a HQ LMER-designated management representative shall lead labor negotiations. LMER representatives will lead world-wide, national, regional, and district negotiations. LMER or HQ LMER designated management representatives may be delegated to lead labor negotiations below the district level.

3. NEGOTIATED AGREEMENT COORDINATION AND APPROVAL REQUIREMENTS. All labor negotiations will be consistent with the policy direction determined by the DoDEA Director.

a. Lead Negotiators. The lead negotiator shall be responsible for ensuring that the interests of the initiating and affected DoDEA organizations are taken into account in negotiations. Lead negotiators will ensure that labor agreements are consistent with programmatic and operational requirements and the effective and efficient functioning of DoDEA.

b. Budget Analysis. Unless waived by the DoDEA Director or the Associate Director for Finance and Business Operations, every proposed negotiable change in conditions of employment will be accompanied by a budget analysis. The Resource Management Division (RMD) shall ensure that a budget analysis is conducted for proposed changes and final agreements. A revised budget analysis shall be conducted for all proposals made between the initial proposal and final agreement that have or might have budget impact that is different from the most recent budget analysis. In coordination with the initiating DoDEA organization, RMD shall conduct a cost analysis to determine the financial impact and assess affordability relative to anticipated funding levels for the affected fiscal year(s). RMD shall present all budget analysis to the Associate Director for Finance and Business Operations (F&BO) for approval.

c. HQ LMER Chief Concurrence. If a LMER representative is not the lead negotiator, the HQ LMER Chief or appropriate Region LMER Chief, as appropriate, must concur with all proposed agreements. Therefore, non-LMER lead negotiators will keep LMER fully informed of the progress and developments of negotiations normally on a monthly basis (unless otherwise determined by the HQ LMER Chief) and seek on-going guidance on proposals and written concurrence on agreements before they are signed. Lead negotiators will provide updates to the initiating DoDEA organizations normally on a monthly basis (unless otherwise determined by the HQ LMER Chief).

d. Agency Head Review. All executed agreements must be submitted immediately (within 24 hours of signature) to HQ LMER electronically for agency head review in accordance with Section 7114(c) of Title 5, United States Code. The submission to HQ LMER must include a signed Portable Document Format (PDF) copy of the agreement, a word version of the agreement, the budget analysis and labor organization's point-of-contact information (i.e., name, title, phone number, postal mailing address, and email address).

e. Stalemated Negotiations. All stalemated negotiations must be reported timely to the HQ LMER Chief for assessment and appropriate recommendations and/or action.

4. MANDATORY AGREEMENT ELEMENTS. All labor agreements negotiated under the requirements of this DTM must contain:

- a. The specific program, policy, or initiative the agreement covers.
- b. The specific labor organization and a general description of the bargaining unit(s) covered by the agreement.
- c. All provisions agreed to by the parties.
- d. Dated signatures of the authorized representatives for both parties, provided an agreement was reached in accordance with Chapter 71 of Title 5, United States Code.

5. RECORD KEEPING. Copies of all agreements will be maintained by HQ LMER in a world-wide database. Records of agreements effective after the date of this DTM shall also include the agency head review approval.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DTM	Directive-Type Memorandum
F&BO	Finance & Business Operations
HQ	headquarters
LMER	Labor Management and Employee Relations Branch
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
PDF	Portable Document Format
RMD	Resource Management Division

PART II. DEFINITIONS

Unless otherwise noted, the following terms and definitions are for the purpose of this Issuance

agency head review. A statutory requirement contained in Section 7114(c) of Title 5, United States Code that negotiated collective bargaining agreements be reviewed for legal sufficiency and conformance with government-wide rules and regulations by the head of an agency. For the purposes of application of this provision of the law in the DoD, the Agency head is the Secretary of Defense.

bargaining unit. A grouping of employees that the Federal Labor Relations Authority has found appropriate under the criteria of Section 7112 of Title 5, United States Code for collective bargaining purposes. Certain types of employees cannot be included in units, e.g., management officials and supervisors. See Section 7112(b) of Title 5, United States Code.

budget analysis. For the purposes of this DTM, a financial costing to determine affordability, budget impacts, and identification of funds to implement both management and labor organization proposals made during negotiations and the final agreement resulting from negotiations.

conditions of employment. Conditions of employment is the term used to describe those matters that are ripe for collective bargaining either as to their substance or, when they involve the exercise of a management right, their impact and implementation. Section 7103 (a)(14) of Title

5, United States Code defines conditions of employment as "personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions." The statute excludes certain matters from the definition. These are policies, practices, and matters relating to prohibited political activities or the classification of any position. Also excluded are matters specifically provided for by federal statute.

labor agreement. A mutual accord concerning negotiable conditions for all or part of a bargaining unit reached between an agency and the labor organization certified to represent the interests of the bargaining unit.

labor organization. Pursuant to the requirements of Section 7103(a)(4) of Title 5, United States Code, an organization that is certified by the Federal Labor Relations Authority to exclusively represent bargaining unit employees over matters pertaining to grievances and conditions of employment. In DoDEA, they are the several unions that serve as representatives of groups of DoDEA employees.

labor organization notice. A statutory notice from LMER to the appropriate labor organization(s) announcing a negotiable change in a condition of employment for DoDEA employees represented by a union.

negotiable change. A proposed change in conditions of employment that is not excluded from the bargaining process by, for example, law, rule, regulation, or prior agreement between management and the labor organization.

Cancelled