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NGHI-HRO

12 January 2018

MEMORANDUM FOR Hawaii National Guard Full-Time Federal Technicians/Employees

SUBJECT: Annual Notification of Bargaining Unit Employee's Right to Union Representation

1. References.

- a. 5 USC §7114, *Representation Rights and Duties*.
- b. 5 USC §3301, *Civil Service: generally*.
- c. 32 USC §709, *Technicians: Employment, Use, Status*.
- d. Chief National Guard Bureau Instruction (CNGBI) 752.
- e. HIANG Negotiated Agreement Between the State of Hawaii TAG and AFGE Local 1213 (previously noted as Local 882).
- f. HIARNG Negotiated Agreement Between the State of Hawaii TAG and AFGE Local 1213 (previously noted as Local 882).
- g. Agreement Between the National Air Traffic Controllers Association AFL/CIO (NATCA) and the 297th ATCS, Kalaeloa Airport, Hawaii Air National Guard, Department of Defense.

2. Purpose. This notification serves as the annual reminder to all federal employees of the Hawaii National Guard in bargaining unit positions of their right to representation. This 5 USC §7114 provision is commonly referred to as "Weingarten" rights.

3. When a supervisory or management official conducts an employee investigative examination concerning alleged misconduct by the employee, "Weingarten" rights allow that employee the opportunity to be represented by an exclusive representative of an appropriate bargaining unit if the following three conditions occur:

- a. One or more agency representatives are examining (questioning) a bargaining unit employee in connection with an investigation;

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b. The employee reasonably believes that this investigative examination concerning alleged misconduct may result in disciplinary action against himself or herself; and,

c. The employee requests union representation.

4. Once all three conditions listed above have been met, supervisors may not continue the examination without allowing the employee his or her requested representation. A supervisory or management official has the following options:

a. Grant the request, notify the union representative and Labor Relations Specialist of employee's request for representation, and set another time/date for the employee meeting to take place with the presence of a union representative;

b. Offer the employee a clear choice to either continue the examination without representation or discontinue the examination until representation can be obtained; or,

c. Continue the investigation without interviewing the employee.

5. The exclusive representative is the labor organization that has been duly elected to represent employees of a particular bargaining unit. The American Federation of Government Employees (AFGE) Local 1213 is the exclusive representative for the majority of bargaining unit employees in the Hawaii National Guard. The National Air Traffic Controllers Association (NACTA) represents bargaining unit employees of the 297th Air Traffic Control Squadron, Hawaii Air National Guard.

6. Not every employee interaction triggers "Weingarten" rights. "Weingarten" rights apply only to bargaining unit employees. Even for these employees, routine work-related conversations and instructions or guidance given by a supervisor, as well as performance reviews, are three examples of actions not covered.

7. Posting this notification to all unit/activity bulletin boards is mandatory.

8. Point of contact for this memorandum is CW4 John Yim, Hawaii National Guard Labor Relations Specialist, at 808-672-1555 or john.k.yim4.mil@mail.mil.

FOR THE ADJUTANT GENERAL:

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