

Executive Summary of FLRA GC Guidance to RDs on Developing a Labor Relations
Strategic Plan -- FLRAgc
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MEMORANDUM

TO: Regional Directors

FROM: Joe Swerdzewski, General Counsel

SUBJECT: Guidance on Developing a Labor Relations Strategic Plan

See also: Executive Summary; Press Release

This Guidance Memorandum discusses the concept of developing a labor relations strategic plan designed to help labor and management successfully deal with each other in the workplace. It serves as guidance to the Regional Directors in informing union officials and agency representatives about effective approaches to fulfilling their responsibilities under the Federal Service Labor-Management Relations Statute (Statute). This Guidance also furthers the Office of General Counsel's Facilitation, Intervention, Training and Education Policy, which was recently incorporated into the General Counsel's Regulations [n1] as part of the Alternative Dispute Resolution (ADR) Services provided by the Office of General Counsel.

I am making this Guidance available to the public to assist union officials and management representatives in developing effective labor relations strategies. This Guidance is a continuation of my Office's commitment to provide the participants in the Federal Service Labor-Management Relations Program with my views on significant topics. [n2] This Guidance reflects my views as the General Counsel of the Federal Labor Relations Authority and does not constitute an interpretation by the three-member Authority.

The Labor Relations Strategic Planning process described in this Guidance can produce beneficial results for labor and management. Strategic labor relations plans can help parties achieve short-term goals, such as dealing with stalled

contract negotiations, significant backlogs of grievances and individual collective bargaining disputes. Strategic labor relations plans can also yield long-term improvements in parties' relationships, such as developing better communication practices, improving trust levels and increasing the use of collaborative processes like interest-based bargaining and pre-decisional involvement.

This Guidance is divided into four parts:

- (1) What is a labor relations strategic plan and why is it necessary?
- (2) Assessing your current labor relations strategy: what is it and is it successful?
- (3) How do labor and management develop a strategy to meet their goals?
- (4) Approaches to implementing a successful labor relations strategic plan.

The Guidance also includes two appendices, which set forth agendas for an internal strategy development program and a joint strategy development program.

EXECUTIVE SUMMARY

FLRA GENERAL COUNSEL JOSEPH SWERDZEWSKI'S MEMORANDUM TO REGIONAL DIRECTORS ON GUIDANCE ON DEVELOPING A LABOR RELATIONS STRATEGIC PLAN

See also: Memorandum (<http://www.flra.gov/gc/lrstpln1.html>); Press Release (<http://www.flra.gov/news/pr113-99.html>)

This Executive Summary of the General Counsel of the Federal Labor Relations Authority's Guidance Memorandum to Regional Directors discusses what a labor relations strategic plan is and how to develop one. Regional Directors frequently provide Alternative Dispute Resolution (ADR) services pursuant to section 2423.2 of the Regulations of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority. This memorandum serves as guidance to the Regional Directors in assisting the parties in understanding the value of a labor relations strategic plan and in preparing a plan for their own use. It is also intended to assist parties in improving their relationships and avoiding litigation. I am making this Guidance Memorandum available to the public to assist union officials and agency representatives in working together to develop productive labor-management relationships, to avoid unfair labor practices, and to obtain a clearer understanding of how to plan a successful approach to labor-management relations.

This Guidance is divided into four parts. Part 1 - What Is a Labor Relations Strategic Plan and Why Is It Necessary? - describes what a labor relations strategic plan is and its value to the parties. Part 2 - How Do Labor and Management Assess Their Current Strategies, and How Successful Are Those Strategies for Them? - explains the concepts of a collaboration strategy and a compliance strategy. It provides a list of questions to use in determining which strategy is currently being used by an organization. It also explains how the philosophy of managing an organization has an effect on its approach to labor relations. Part 3 - How Do Labor and Management Develop a Strategic Plan to Meet Their Goals? - describes the steps in a process which can be used to develop an individual or joint labor relations strategic plan. Part 4 - How Do Labor and Management Develop Approaches to Implementing a Successful Labor Relations Strategic Plan? - describes the need for a clear approach on how to implement a strategic plan. This part describes the kinds of questions which must be answered to successfully implement a plan.

Attached to the Guidance are two appendices. The first appendix is an agenda for an individual labor relations strategic plan development program for the use of either labor or management in developing their own internal plans. The second appendix is an agenda for a joint labor relations strategic plan development program. This program is for the use of both labor and management in developing a joint plan.

PART 1

WHAT IS A LABOR RELATIONS STRATEGIC PLAN AND WHY IS IT NECESSARY?

Q. # 1: What is a labor relations strategic plan?

A labor relations strategic plan is an effort to identify the goals in labor relations desired by labor or management, individually or jointly; to determine the strategy needed to reach those goals; and to develop the actions that are necessary to carry out that strategy.

Q. # 2: Why is a labor relations strategic plan necessary?

A labor relations strategic plan is necessary to change the conduct of labor relations from being reactive to being pro-active. Developing a strategic plan allows the parties to move away from simply reacting to each other, towards an approach where they have a clear understanding of the best way to operate effectively to accomplish the mission of the agency and achieve their labor relations goals.

Q. # 3: Who should have a labor relations strategic plan?

Labor and management that have problem relationships should have a plan to

start them moving in a positive direction. Partnerships that are struggling should develop a plan to gain some momentum and move forward. Relationships which are working well should have a plan to carry on their success through changes in leadership on either or both sides. The Guidance sets forth a series of questions which can be useful in deciding on whether to develop a labor relations strategic plan.

PART 2

HOW DO LABOR AND MANAGEMENT ASSESS THEIR CURRENT STRATEGIES, AND HOW SUCCESSFUL ARE THOSE STRATEGIES FOR THEM?

Q. # 1: What are labor relations strategies?

A labor relations strategy is the basic approach to how a union or management conducts labor relations. There are two basic strategies for conducting labor relations in the federal sector: collaboration and compliance. Each of these strategies, as well as a combination of these strategies, can be a viable approach to a successful labor relations program. A strategic plan helps to focus on the effective use of a strategy.

Q. # 2: What is a compliance strategy?

A compliance strategy relies on the enforcement of rights and obligations created by statute and by contract. This is the predominant strategy used in the federal sector, as well as in the private sector. The effectiveness of this strategy depends on the ability and skill to force the other party to do what the law or the parties' contract requires it to do.

Q. # 3: What are the advantages of a compliance strategy?

There are several advantages of a compliance strategy:

a.. This strategy is known to many parties since it has been in use for over 20 years. Although parties may not be thoroughly familiar with all aspects of each of the processes, they know what the processes are and are generally familiar with how they operate.

b.. There are clearly defined winners and losers. Compliance is beneficial to the party with greater staying power and with greater skill in the process. Having greater staying power and greater skill can equate to winning more frequently and thereby being more successful.

c.. There is no need to trust the other party. The normal arms-length interaction which characterizes adversarial relationships does not rely on the parties' commitment or mutual trust. The parties don't have to get along to be adversarial. The parties simply use the various legal processes to adjudicate

their rights, without relying on an effective relationship.

d.. Compliance may be quicker than other approaches. If a party has made a decision which it believes is within its legal rights, it does not have to spend time dealing with the other party. It simply does what it thinks is right and moves forward. Of course, if the party violates the law in taking this approach, the unfair labor practice process may slow down the implementation.

Q. # 4: What are the disadvantages of a compliance strategy?

There are several disadvantages of a compliance strategy:

a.. Litigation can be costly, both in terms of financial and other resources.

b.. Adversarial relations can result in continual escalation of warfare between the parties. Winning may become more important than the underlying issue. What otherwise may be trivial issues become significant to the parties and matters of principle that end up being litigated.

c.. To be successful, a party must have a high degree of knowledge of the law and skill at advocating its position. Lack of a high degree of knowledge and skill is a serious disadvantage to a party using a compliance strategy.

d.. A compliance approach does not improve the relationship between the parties. It can lead to irreparable damage to the ability of parties to communicate effectively concerning issues of mutual concern.

Q. # 5: What is a collaboration strategy?

A collaboration strategy relies on the use of an interest-based approach to solving problems that otherwise would be resolved through the enforcement processes provided by the Statute. It relies on both parties acknowledging that each brings value to the table. It requires a high degree of trust and commitment.

Q. # 6: What are the advantages of a collaboration strategy?

The advantages of a collaboration strategy are the following:

a.. A significant advantage is that labor and management use interest-based problem solving as the basic method of resolving disputes. In an interest-based approach, the parties attack the problem and not each other.

b.. A well-crafted collaborative solution improves the quality of the decision-making, as well as reduces subsequent problems arising from the actual implementation.

c.. Collaboration also tends to increase the level of trust between the parties, which can lead to increased communication, which in turn results in better understanding of each side's concerns and better resolution of disputes.

Q. # 7: What are the disadvantages of a collaboration strategy?

The disadvantages of a collaboration strategy are the following:

a.. It may have a negative effect on the respective constituencies of labor and management. Union members may perceive a collaborative union leadership as being "in bed" with management and only looking out for the leadership's personal interests and not the interests of the employees. Likewise, management may lose the support of lower-level management who may believe that upper management has "sold out" to the union.

b.. Collaboration can also take longer to bring about change because using an interest-based approach sometimes takes longer than traditional bargaining.

c.. Collaboration uses a new set of skills which are different from those required to be effective in a compliance environment. These new skills require changes in individuals' attitudes and approaches in how to deal with others.

Q. # 8: Is collaboration co-management?

No. Collaboration does not involve co-management of the agency by the union. Co-management involves joint decision-making, which is inconsistent with the role of the union as representative of employees. If co-management resulted in making the union a part of management, the employees would essentially have two sets of management, instead of a representative. They would lose the union's ability to represent their interests when they clashed with the interests of management.

Q. # 9: Why is the term "collaboration" used instead of "partnership"?

The term "collaboration" instead of "partnership" is used to define this strategy because Executive Order 12871 does not define what a partnership is, nor does it explain what is expected of the parties in such a relationship. A partnership relationship under the Executive Order may use a collaborative approach to labor relations, some combination of both collaboration and compliance, or may simply be some form of compliance. Collaboration is a way of dealing with each other which may or may not include an actual partnership agreement or relationship. It is a strategy which relies on greater involvement in management decision-making by employees through their exclusive representative but retains ultimate decision-making authority in management, as is the case in most partnership arrangements.

PART 3

HOW DO LABOR AND MANAGEMENT DEVELOP A STRATEGIC PLAN TO MEET THEIR GOALS?

Q. # 1: Who should develop the strategic plan?

For a labor relations strategic plan to be effective, it must be developed by a cross-section of the people who will be affected by it. It should not be a paper exercise, nor should all constituents participate in its development. A labor relations strategic plan cannot be carried out effectively if it is the sole creation of the labor relations staff of an agency or of the president of a union. To be effective, it must be developed by people who are responsible for achievement of the goals of the agency or union. They must buy in to the strategy and understand its advantages and disadvantages. The most effective process for the development of a strategy is to use a team approach. This approach is also the most effective at developing the buy-in needed to make the strategy work.

Individual strategy development teams generally should consist of at least 10 and no more than 20 members. Joint strategy teams consisting of union and management generally should have 20 - 30 members. The head of the organization and the president of the union are essential participants. The remainder of the participants should be leaders of their respective organizations.

Q. # 2: How do you develop an individual labor relations strategic plan?

There are six segments to the development of an individual plan: (1) a presentation and discussion of what a labor relations strategy is and the reasons for having one; (2) an assessment of the current labor relations strategy being used; (3) an analysis of the current state of the relationship between labor and management; (4) an assessment of whether the current strategy is helping the organization attain its goals; (5) a decision on the best strategy for the organization; and (6) the development of a labor relations strategic plan. Each of these segments is a building block towards the development of the plan itself. The Guidance outlines these steps and what is achieved by following them. Appendix A of the Guidance is an agenda for an internal labor relations strategic plan development program.

Q. # 3: How do you develop a joint labor relations strategic plan?

Many of the segments of this program are similar to the internal strategy development program. The purpose of a joint program is to provide labor and management an opportunity to develop a plan on how to conduct labor relations more effectively. If the parties are in partnership, the plan's purpose is to make the partnership more effective. If the parties are not in partnership, the plan seeks to improve how they conduct labor relations and provide opportunities to move in the direction of a more collaborative relationship.

Appendix B of the Guidance is an agenda for a joint labor relations strategic plan development program.

PART 4

Approaches to Implementing a Successful Labor Relations Strategic Plan

Q. # 1: How do you implement a collaboration strategy?

Changing the current approach to how labor relations is conducted is, in many respects, a cultural change for an organization. For an agency or union that has not been collaborative in the past to become more collaborative requires a significant change in the way each side thinks about the other. Many of the attitudes and myths associated with labor relations die hard for some people.

For those attitudes and myths to change requires leadership and training. Leaders from both organizations must send a clear message that there is a new approach to labor relations, what that approach is and that they firmly support it. Joint training is needed to inform management and union constituencies as to the reasons and value of the change. Training should also be done internally within each organization so the issues related to such a change can be fully explored.

Additionally, training must be provided to develop the skills necessary for working in a collaborative environment. Processes must also be developed which further a collaborative environment, such as pre-decisional involvement and ADR.

The Guidance outlines the steps for the implementation of a successful collaboration strategy.

Q. # 2: How do you implement a compliance strategy?

For an organization to be successful with a compliance approach, it must also change its attitude and approach to the conduct of labor relations. It requires a greater grasp of the law and more thorough understanding of the statutory processes. It requires an emphasis on being current on the state of the law and knowledgeable about various approaches to the settlement of disputes. The parties' collective bargaining agreement must be current and clearly reflect the needs of the parties. Developing an approach to doing litigation risk analysis is an important process to develop to determine the effects of litigation.

The Guidance outlines the steps for the implementation of a successful compliance strategy.