

promotion practices or through other conditions of employment. Also, the agency may not discipline or otherwise discriminate against an employee because he or she has filed a complaint or given testimony under 5 U.S.C. Chapter 71, (See Section 7116). Such interference with employee rights under the Statute would constitute an unfair labor practice.

(4) Prohibited Negotiated Agreement Provisions

For example, a negotiated agreement provision prohibiting solicitation by employees during non-working time, unless based upon discipline or production problems, would be improper. Similarly, a provision prohibiting distribution of material in non-working areas would be improper unless based on fire, safety, health or special problems. The agency may prohibit employees from entering a work area for job related reasons. For example, an agreement at a military installation may properly prohibit employees whose shift has ended from entering restricted areas for purposes of solicitation, assuming there are other adequate available means of reaching employees.

D. EXAMPLES OF UNFAIR LABOR PRACTICES BY MANAGEMENT

As described above management is prohibited from interference with the employee's right to form, join, and assist a labor organization or to refrain from such activities. In addition management sponsorship, control or assistance to a labor organization is also improper. The following list illustrates conduct, which may be found to be an unfair labor practice under 5 U.S.C. 7116(a) of the Statute, but should not be considered all-inclusive.¹⁰

- (1) Reprisals, benefits, threats of reprisal or promises of benefits, expressed or implied, oral or written, which relate to or are contingent upon an employee's membership in or lawful activities on behalf of a labor organization;
- (2) Interrogation, surveillance (spying), or actions which give the impression of such activities, designed to determine the union membership or activities of employees, except to the extent that an Investigation may be conducted by an agency concerning the involvement of employees in illegal strikes or other forms of unlawful job action;

¹⁰ Unfair labor practice procedures are discussed in Management Practices Manual, Unfair Labor Practices in Federal Labor-Management Relations, issued September, 1981. A limited number of copies is available from the U.S. Office of Personnel Management, Office of Employee, Labor and Agency Relations, LAIRS Section, 1900 E Street NW, Washington, D.C. Copies must be requested through your agency headquarters labor relations office.