

NASA Headquarters Professional Association

For NHPA Bargaining Unit Employees: What happens and what are your rights when NASA has decided to implement a change in personnel policy or practice or to other general condition of employment? *

(NHPA - NASA Changes - Background 2018-10-22)

When the Agency intends to change a personnel policy or practice or other condition of employment, the NHPA has the following rights:

- To be *properly and timely informed* of the plans by NASA management, with clear information about possible impacts (or information that can allow us to evaluate possible impacts) on each bargaining unit employee and the NHPA
- The NASA - NHPA Collective Bargaining Agreement (CBA) Article 4, Section 4.02 states, per 5 USC 7114(a)(1)(A):
“The Union shall be given the opportunity to be represented at: Any formal discussion between one or more representatives of the Employer and one or more employees in the Unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.”
 - This means NHPA representatives can be there at formal discussions of such matters

Actions the NHPA can take in responding to notification by NASA of a change:

- Meet with affected employees to collect information, inform employees of their rights, and explain the NHPA - NASA review process
 - The NHPA can help employees understand their rights, help them navigate the process of exercising those rights, and provide representation consistent with the law, the CBA, and the NHPA constitution
- Ask for a briefing from management
- Bargain, including developing and submitting proposals/counter-proposals in response to NASA’s plans
 - Depending on the subject matter of the proposals, the union may be limited to bargaining impact and implementation

In the case of a reorganization, the NHPA would receive a package that would include:

- Organizational charts - before and after
- Reassignment/Realignment Reorganization Spreadsheet showing all employees’ (not just bargaining unit employees) positions before and after the reorganization, including changes in title/series/grade

NHPA’s rights and restrictions under the Federal Service Labor-Management Relations Statute:

- The NHPA can bargain with NASA management on issues that impact bargaining unit employees.
- Title VII of the Civil Service Reform Act of 1978 is also known as the Federal Service Labor-Management Relations Statute or the Statute

<https://www.flra.gov/resources-training/resources/statute-and-regulations/statute>

- Purpose: “prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government.” 5 U.S.C. § 7101(b).
- 5 U.S.C. § 7106(a) establishes **management rights** under the Statute. The substance of management’s decision to exercise these rights is non-negotiable.
 - Right to determine the mission, budget, organization, number of employees and internal security practices
 - In accordance with applicable laws, hire, assign, direct, layoff, retain, suspend, remove, reduce in grade or pay, discipline, assign work, contract out, determine personnel, make selections for hiring, and other action as necessary to carry out the mission during emergencies.
- Management rights are subject to § 7106(b):
 - (5 U.S.C. § 7106(b)(1) establishes scope of “**permissive subjects**,” of bargaining: “numbers, types, and grades of employees or positions; on the technology, methods or means of performing work.”
 - 5 U.S.C. § 7106(b)(2) and (3) require an agency to bargain over procedures and appropriate arrangements when it exercises its rights under the management rights clause.
 - Bargaining pursuant to §§ 7106(b)(1) –(3), is commonly referred to as bargaining over the “**impact and implementation**” of an exercise of a management right.
 - For example, if a reorganization negatively changes positions, level of responsibility, pay, etc., the NHPA could bargain the impact and implementation of these changes under 7106(b)(1) “permissive subjects.” The NHPA could also propose a resolution (“appropriate arrangement”) to any negative impacts on affected bargaining unit employees--within the confines of the law, per 7106(b)(2) and (3).
- The NHPA cannot bargain certain things, like who your supervisor is. However, there could be other rights at issue, depending on the specifics.
- The NHPA can also bargain with management if a reorganization affects who will and who will not be in the bargaining unit.
- Also, if management does not give NHPA proper, timely notice, or does not work with the NHPA in good faith, the NHPA can “call management” on that, and escalate it to an unfair labor practice charge.

The NHPA is here to represent your interests as you work to support NASA’s mission.

Our philosophy is to seek informal, collaborative resolution of all issues. But we are prepared to take appropriate next steps to execute our responsibility to bargaining unit employees.

* This document is not legal advice--this represents NHPA’s understanding at the time of writing.