

LUKE AIR FORCE BASE, ARIZONA Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1547 Charging Party	Case No. DE-CA-50519

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.26(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.26(c) through 2423.29, 2429.21 through 2429.25 and 2429.27.

Any such exceptions must be filed on or before **OCTOBER 15, 1996**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW, 4th Floor
Washington, DC 20424-0001

SAMUEL A. CHAITOVITZ
Chief Administrative Law

Judge

Dated: September 13, 1996
Washington, DC

MEMORANDUM

DATE: September 13, 1996

TO: The Federal Labor Relations Authority

FROM: SAMUEL A. CHAITOVITZ
Chief Administrative Law Judge

SUBJECT: LUKE AIR FORCE BASE, ARIZONA

Respondent

and

Case No. DE-CA-50519

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 1547

Charging Party

Pursuant to section 2423.26(b) of the Rules and Regulations, 5 C.F.R. § 2423.26(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424-0001

LUKE AIR FORCE BASE, ARIZONA Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1547 Charging Party	Case No. DE-CA-50519

Major Michael Wells, Esq.
Phillip G. Tidmore, Esq.
For the Respondent

Paul King, President
For the Charging Party

Bruce Conant, Esq.
For the General Counsel
of the FLRA

Before: SAMUEL A. CHAITOVITZ
Chief Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. § 7101, *et seq.* (Statute), and the Rules and Regulations of the Federal Labor Relations Authority (FLRA or Authority), 5 C.F.R. § 2411, *et seq.*

Based upon an unfair labor practice charge, as amended, filed by the Charging Party, American Federation of Government Employees (AFGE), Local 1547 (AFGE Local 1547 or Union) against Luke Air Force Base, Arizona (Luke AFB or Respondent), a Complaint and Notice of Hearing was issued on behalf of the General Counsel (GC) of the FLRA by the Regional Director for the Denver Region of the FLRA. The complaint alleges that Luke AFB violated § 7116(a)(1) and (8) of the Statute when it held an allegedly formal discussion with a bargaining unit employee on January 19, 1995, without affording the Union adequate notice and the opportunity to be represented. Luke AFB filed an answer denying the violations alleged in the complaint.

A hearing was held in Phoenix, Arizona, at which all parties were afforded a full-opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence. The Respondent and the GC of the FLRA filed post hearing briefs, which have been carefully considered.

Based upon the entire record, including my observation of the witnesses and their demeanor, I make the following findings of fact, conclusions and recommendations.

Findings of Fact

A. Background

AFGE Local 1547 is the exclusive representative of a bargaining unit of employees of Luke AFB. Tillie Cano is a member of the Union's bargaining unit, but is not and has not been a member of the Union. Paul King is the President of the Union.

Cano's immediate supervisor, at certain material times, was Lt. Col. Priscilla Pelletier. Davene Harris is Luke AFB's Chief EEO Counselor and Captain Renee Bennett is an attorney at Luke AFB and the Chief of Civil Law in the office of the Staff Judge Advocate General.

Cano filed an informal EEO complaint against Pelletier in 1994. After receiving counseling at the informal stage, Cano filed a formal EEO complaint in April 1994. The complaint was accepted by Respondent for investigation and an investigation by correspondence was conducted at Respondent's request by the Department of Defense's Office of Complaint Investigations (OCI). That investigation ultimately resulted in a recommendation to Luke AFB, received shortly before the discussion that is the subject of this case, that no discrimination be found.

B. Cano's Formal EEO Complaints

Subsequent to the filing of the initial EEO complaint, Cano filed allegations of reprisal for her EEO activities which, after counseling at the informal stage, resulted in two additional formal EEO complaints. These were accepted by Luke AFB for investigation and again OCI was requested to conduct that investigation for the base.

1. EEO Procedure; OCI and OCI Investigator Sheila Johnson

Under the Federal Sector Equal Employment Opportunity program (29 C.F.R. Part 1614), agencies are responsible for investigating complaints filed against them by their employees 29 C.F.R. § 1614.108(a). Prior to the filing of a formal complaint, EEO regulations provide that employees are to receive counseling concerning their grievances and the possibilities of informal resolution are to be explored. During this counseling stage, strict rules concerning confidentiality are enforced and even the name of the aggrieved employee cannot be revealed by the counselor without permission. The EEO counselor is required to inform the aggrieved employee of his or her right to file a formal complaint of discrimination, including explaining that once the complaint reaches the formal stage, confidentiality may be lost. In fact, "going formal" with the complaint may be understood as "going public" with it.

Within the Department of Defense, the formal EEO complaint investigation function has been consolidated and is now performed by its OCI, which is part of its Civilian Personnel Management Service. OCI Discrimination Complaints Investigator Sheila Johnson, who investigated Cano's formal EEO complaints at the request of Luke AFB, is assigned to Department of Defense's Sacramento, California, OCI office. EEOC Management Directives, EEO MD-110, which provides guidance to OCI, provide that an agency may contract out an investigation or may arrange for another agency to conduct the investigation, but remains responsible for the content and timeliness of that investigation.¹ EEO, MD-110, p. 4-9; 29 C.F.R. § 1614.108.

¹

I hereby take official notice of the Management Directive issued by the Equal Employment Opportunity Commission entitled the Federal Sector Complaints Processing Manual and numbered EEO MD-110. See 5 C.F.R. § 2423.19(o) of the FLRA's Rules and Regulations.

OCI provides different services and report formats to different OCI "customers", depending on their requests. In addition to the investigation of EEO complaints, OCI investigators utilize mediation in appropriate cases in their attempts to assist the parties in resolving cases.

2. Processing Cano's Formal EEO complaints

Cano's formal EEO complaints were assigned to OCI Investigator Johnson, who wrote Cano a letter dated January 5, 1995 informing Cano that Johnson would be conducting an on-site investigation of the two formal EEO complaints involving reprisals, starting on the afternoon of January 18, 1995. In that letter, Johnson explained the procedures which she would follow in attempting to mediate and later investigate, if necessary, the complaints. The letter stated that there would be a mediation conference from 1:00 to 4:00 on the afternoon of January 18, with a formal investigation lasting another 2 hours, beginning immediately thereafter, if there was no settlement. The letter noted that "failure to cooperate in the investigation . . . may be the basis for an adverse inference concerning the position of the nonresponding party". Subsequent to learning of the upcoming investigation, Cano approached King at the Union office explaining the history of her EEO complaints and seeking his representation. She designated King as her personal representative on January 12, 1995.

January 18, 1995 Meeting

Cano, King and Johnson met with representatives of Luke AFB as scheduled at 1:00 on the afternoon of January 18. King attended in his role as Cano's personal representative.² Luke AFB was represented by Bennett, who had been assigned as Agency Representative in the case and had been given certain settlement authority, and Pelletier, Cano's former supervisor.³

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AFGE Local 1547 had never been notified of EEO complaint mediation/investigation meetings in cases in which one of its representatives was not involved as the designated personal representative of the complainant.

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Cano had been detailed to a position not under Pelletier's supervision.

The parties met in a conference room in the headquarters building, across from the EEO office and upstairs from the legal office, about 1 or 1 ½ miles from Cano's work place. Arrangements for the meeting had been made by Harris or her assistant. Cano's release to attend the meeting during duty time was approved by her supervisor. Cano considered the meeting to be mandatory.⁴ Cano received credit for the time spent in the meeting beyond her scheduled duty hours.

During the initial part of the meeting, Johnson led the parties in an attempted mediation of the dispute. Several other management officials were in and out of the meeting room lending their expertise to the deliberations. During the mediation, the parties discussed, in depth, the remedy which Cano was seeking and the actions that management was willing to take in order to settle the complaints. No written settlement agreement was proposed because it became clear to management, late in the afternoon, that it would not agree to Cano's demands. Among the topics discussed were permanent assignment to another position, formal training for that position, a revised performance appraisal, a monetary performance award, the deletion of certain material from Cano's record, and a cash payment. In addition to attempting to reach a settlement satisfactory to Cano, King was interested in assuring that the interests of other bargaining unit employees were not compromised by the settlement.

When it became clear that the parties would be unable to reached a mediated settlement that day and the management representatives left the meeting, Johnson began to take a statement from Cano, the first step in her investigation of the formal EEO complaints. King, whose testimony regarding this meeting I find most credible, left the meeting before it ended. King left before there was any discussion of the need for Johnson and Cano to meet again the following day. Johnson and Cano continued their discussions, probably for another couple of hours, and agreed to get together the next day to resume the meeting.

January 19, 1995 Meeting

Cano met with Johnson at 3:00 pm the following afternoon to resume their discussions of her EEO complaints. There was conflicting and uncertain testimony concerning when and by whom this time was set. They met in the same headquarters building conference room as the previous day.

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OCI takes the position that the complainant has a duty to prosecute his/her case.

Again, Cano's supervisor approved her release to go to the meeting on duty time. Despite the fact that this second meeting was prescheduled, perhaps from as early as late on the previous day, there was no attempt by management to contact the Union.⁵

Early during the course of this meeting, Cano was presented with a proposed settlement agreement by either Harris or Bennett. In discussions that followed with Cano, the agreement was changed to incorporate a provision that Cano's reassignment would not impact on other positions in the work unit. Harris was central to these discussions and was in and out of the room. Bennett was also involved, at least behind the scenes, and probably in the room with Cano. Despite the fact that she considered the terms of the agreement within her settlement authority, Bennett involved her supervisor, Staff Judge Advocate Lt Col Donovan. Cano finally signed the agreement at 5:24 pm and wrote (in words dictated to her by Harris) "I elect to sign this agreement without the presence of my representative". Because of unexplained delays, it was almost another hour before Cano received a copy of the signed agreement and was free to go at about 6:30 pm.

Discussion and Conclusions of Law

A. Relevant Statutory Provisions

Section 7114(a)(2)(A) of the Statute provides:

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be present at-

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment;

Section 7116(a)(1) and (8) of the Statute provides:

(a) For the purpose of this chapter, it shall be unfair labor practice for an agency-

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Cano was under the impression that King had been unavailable for a meeting at that time and that she did not attempt to contact him concerning it. She did not object to his presence at the meetings. On the contrary, she had wanted him to be present.

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

* * * *

(8) to otherwise fail or refuse to comply with any provision of this chapter.

B. Johnson, OCI Investigator, Harris and Bennett were representatives of Luke AFB

The GC of the FLRA contends that Johnson, Bennett and Harris are all representatives of Luke AFB, within the meaning of § 7114(a)(4)(A) of the Statute.

Luke AFB argues that because Johnson is employed by OCI, a part of the DOD, and not by Luke AFB, or even by the Air Force, she was not a representative of Luke AFB.

The Authority has held that, for the purposes of § 7114(a)(2)(A) of the Statute, a contractor functions as the "representative of the agency" when the contractor conducts the agency's business. *Defense Logistics Agency, Defense Depot Tracy, California*, 39 FLRA 999, 1013 (1991) (DLA).

EEOC Management Directives provide that an agency is responsible for investigating formal EEO complaints filed against it by its employees, but that it may contract out an investigation or may arrange for another agency or part of its own agency to conduct the investigation. It remains responsible for the content and timeliness of the investigation. EEO MD-110, p .4-9.

The OCI investigation was initiated by letters to it from the Luke AFB Commander. Johnson, Harris and Bennett were all employees of the DOD. Johnson was brought in from another DOD component because employees with her special training and expertise had been consolidated into the OCI. The results of the investigation were to be reported back to management at Luke AFB in the format requested by the Air Force for further action by Luke AFB. Despite the fact that Johnson had to be brought in from the outside to conduct the investigation, the content and timeliness of the investigation remained the responsibility of Luke AFB. It was Luke AFB's obligation, under the EEOC regulations, that Johnson was performing.

Johnson was at Luke AFB at the request of Luke AFB's Commander to investigate the case and report her findings

back to him. Harris reported directly to the Commander and was engaged in supporting the investigation/mediation. Bennett, employed at Luke AFB, was its representative to settle these cases. The degree of supervision exercised by Luke AFB management over the actions of these employees is irrelevant to the inquiry. Johnson, Bennett and Harris were clearly engaged in the work of Luke AFB, investigating or resolving Cano's formal EEO complaints, during the January 19 meeting. See *Defense Criminal Investigative Service v. FLRA*, 855 F.2d 93, 99, 100 (3d Cir. 1988).

In light of the foregoing I conclude that Johnson, Harris and Bennett were representatives of Luke AFB within the meaning of § 7114(a)(2)(A) of the Statute. See *DLA and Department of Health and Human Services, Social Security Administration, Baltimore, Maryland and Social Security Administration, Region X, Seattle, Washington*, 39 FLRA 298, 311-312 (1991).

C. The January 19 meeting was a formal discussion concerning a grievance within the meaning of § 7114(a)(4)(A) of the Statute

The Authority holds that the Union has the right to be present at a formal discussion between management and one or more unit employees concerning any grievance or any personnel policy or practice or other general condition of employment, within the meaning of section 7114(A)(2)(A) of the Statute, so that the Union may safeguard its interests and the interests of the unit employees in the context of the Union's representational responsibilities under the Statute. *General Services Administration*, 50 FLRA 401, 404 (1995) (*GSA*).

The Authority requires that all four elements of section 7114(a)(2)(A) be established before the Union's right to be represented obtains. Therefore, the evidence must satisfy the following: (1) there must be a discussion, (2) which is formal, (3) between one or more unit employees and management, (4) concerning any grievance or any personnel policy or practices or other general condition of employment. *DLA*, at 1012.

Authority decisions find that a formal EEO complaint constitutes a "grievance" within the meaning of § 7114(a)(2)(A) of the Statute. See *Nuclear Regulatory Commission*, 29 FLRA 660, 662 *Ray Brook, New York*, 29 FLRA 584, 589-90 (1987) *affirmed sub nom. American Federation of Government Employees, Local 3882 v. FLRA*, 865 F.2d 1283 (D.C. Cir.

1989) and *National Labor Relations Board*, 46 FLRA 107 (1992).

Luke AFB denies, however, that the meeting concerned a grievance, within the meaning of § 7114(a)(2)(A), relying upon the decision of the Court of Appeals for the Ninth Circuit in *IRS, Fresno Service Center v. FLRA*, 706 F.2d 1019 (9th Cir. 1983) (*IRS, Fresno*). This reliance is misplaced because there are substantial factual differences between the subject case and *IRS, Fresno*. *IRS, Fresno* involved an EEO matter during its informal or precomplaint stage, whereas the subject case involves Cano's formal EEO complaints, filed after she had exhausted the precomplaint procedures. In a later case the Court of Appeals explained its decision *IRS, Fresno* by noting that:

In that case, we found the meetings to be informal only because the EEOC regulatory framework that governed the case explicitly characterized them in that way. Under that framework, the employee was required to try to resolve a complaint on an informal basis before filing a formal complaint. *Department of Veterans Affairs Medical Center, Long Beach, California v. FLRA*, 16 F.3d 1526, 1532 (9th Cir. 1994) (*DVA, Long Beach*).

In light of the foregoing I conclude that Cano's formal EEO complaints were "grievances" within the meaning of § 7114(a)(4)(A) of the Statute.

The Authority has held that, within the meaning of § 7114(a)(2)(A) of the Statute, a "meeting" is equivalent to a "discussion", and that actual dialogue is not necessary. *Kelly Air Force Base*, 15 FLRA 529 (1984). During the January 19 meeting, the participants discussed and reached a settlement of Cano's formal EEO complaints. Thus the January 19 meeting was a "discussion" within the meaning of § 7114(a)(4)(A) of the Statute.

In determining whether a discussion or a meeting is "formal" within section 7114(a)(2)(A) of the Statute, the Authority considers the totality of facts and circumstances. *Marine Corps Logistics Center, Barstow, CA*, 45 FLRA 1332, 1335 (1992). Among the factors the Authority examines are the following eight indicia of formality:

- (1) whether the meeting was held by a first-level supervisor or someone higher;
- (2) whether other management representatives attended;
- (3) where the meeting took place;
- (4) how long the meeting

lasted; (5) how the meeting was called; (6) whether a formal agenda was established; (7) whether attendance was mandatory; and (8) the manner in which the meeting was conducted (whether comments were noted or transcribed).

Defense Logistics Agency, 48 FLRA 744, 753 (1993).

Johnson met with Cano on the afternoon of January 19 from 3:00 pm to about 6:30 pm to investigate/mediate Cano's formal EEO complaints. Harris and Bennett were also involved in the efforts to settle Cano's formal EEO complaints. In meeting with Cano, the three were clearly acting as "representatives of the agency" in attempting to settle or otherwise investigate the complaints, as management was required to do at that stage. Each of the three representatives had a different role to play. Johnson's main goal was to mediate a settlement of the complaints for Luke AFB. Harris was responsible to see that the complaints were properly processed (either investigated or settled) so as to meet Luke AFB's obligations toward Cano under the EEO statute. Bennett had been delegated settlement authority and was representing Luke AFB as its lead negotiator.

The indicia of formality apply to the meeting as follows: (1) the meeting was held by Johnson, who was visiting the base at the written request of its Commander, to investigate the charges, and by Harris and Bennett, who were employed at a very high level of management; (2) two high-level management representatives, Johnson and Harris, participated extensively in the meeting while Bennett appears also to have probably attended briefly; (3) the meeting took place in the headquarters building, a mile or more away from Cano's work site; (4) the meeting lasted for over three hours; (5) The meeting was scheduled in advance and was a continuation of a meeting which was arranged by correspondence from Johnson to all involved weeks in advance; (6) there clearly was a pre-established agenda for the meeting, mediation and/or investigation of Cano's EEO complaints and her settlement demands; (7) Cano considered the meeting to be mandatory⁶; and (8) the meeting resulted in a signed settlement agreement reflecting the results of the meeting.

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Her interests in having her formal EEO complaints resolved favorably to her could be damaged if she failed to cooperate in the mediation/investigation procedure. Furthermore, Cano was released from her duties on duty time to attend the meeting and her attendance was requested and arranged by management.

This discussion was not an informal conversation between Cano and Johnson, Bennett and Harris at which the EEO matter just happened to come up. Rather, the purpose of the meeting, held in the headquarters building was to discuss the formal EEO complaints and to discuss the their settlement. This meeting was surely sufficiently "formal", within the meaning of §7114(a)(2)(A), to warrant notification of AFGE Local 1547 and to provide it the opportunity to be represented.

Neither King nor any other representative of AFGE, Local 1547, was given notice or the opportunity to be present during the January 19 discussion.⁷

The Authority has recognized that the intent and purpose of § 7114(a)(2)(A) of the Statute is to provide the union with an opportunity to safeguard its interests and the interests of bargaining unit employees as viewed in the context of the union's full range of responsibilities under the Statute. Consideration of the intent and purpose of § 7114(a)(2)(A) of the Statute is only a guiding principal to inform judgements in applying the statutory criteria. *GSA* at 404.

In light of all of the forgoing, I conclude that the January 19 meeting met all of the criteria set forth in § 7114(a)(2)(A) of the Statute. It was a formal discussion between a unit member and representatives of Luke AFB concerning a grievance, and AFGE Local 1547 was entitled to notice of the meeting and an opportunity to be present at it. Luke AFB's failure to notify AFGE Local 1547 about the meeting denied the Union the opportunity to be represented at the January 19, 1995, meeting. Luke AFB's failure to notify and afford the Union the opportunity to be present at the discussion violated § 7116(a)(1) and (8) of the Statute. *GSA; U.S. Department of Justice, Bureau of Prisons, Federal Correctional Institution, Bastrop, Texas*, 51 FLRA 1339 (1996).

Luke AFB argues that the EEOC rules encourage agencies to make every attempt to voluntarily settle complaints, and to incorporate alternative dispute resolution techniques into investigative efforts. 29 C.F.R. §§ 1614.603 and 1614.108(b). Because Johnson was attempting to mediate and

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Even if King knew that the investigation, which was started during the January 18 meeting, would be continued into the next day, he had no way of knowing that the mediation of a settlement (which had been abandoned at the first session) would resume. At best, he had knowledge of a meeting without knowing that settlement would be discussed.

settle Cano's formal EEO complaints, Luke AFB asserts that made the January 19 meeting informal. I reject this contention that attempting to settle Cano's formal EEO complaints magically made the discussion informal. On the contrary, because it was a meeting whose purpose was, at least to a major extent, to settle the formal EEO complaints, indicates the meeting was formal.

Luke AFB argues that the Union should not have been invited to the January 19 meeting because Cano's rights outweigh those of the Union. Section 7114(a)(2)(A) specifically grants the Union the right to be present at formal discussions concerning grievances in order to safeguard the interests of bargaining unit employees. GSA. The January 19 meeting meets all the requirements of § 7114(a)(2)(A) of the Statute. To exclude the Union from this meeting, at which a settlement was negotiated and arrived at, would be to prevent it from performing its duties and exercising its rights as provided in the Statute. Luke AFB has shown nothing in the EEOC procedures or directives that compels this result. Respondent's argument of weighing an employee's right to settle a grievance with the Union's right to represent the unit employees, and to find the employee's right superior would, in effect, strike § 7114(a)(2)(A) from the Statute. Accordingly I reject this argument.

Luke AFB argues that the mediation process requires confidentiality under the Alternative Dispute Resolution Act, 5 U.S.C. § 571 *et seq* (ADRA). Respondent cites § 574 of the ADRA. Luke AFB's reliance is misplaced. ADRA envisions using a "neutral" to mediate disputes and provides that the "neutral" mediator serves at the will of the parties. ADRA § 537. Johnson is not such a "neutral". She is a representative of Luke AFB for the purpose of investigating and settling Cano's formal EEO complaints and the record does not establish that Cano had any power or right to discharge Johnson or to choose another mediator. Further nothing in the ADRA forbids the Union from being present at the settlement discussions or when settlement was reached in Cano's formal EEO complaints. ADRA does not, by its terms, eliminate the Union's rights under § 7114(a)(2)(A) of the Statute. In this regard it should be noted that an official from OCI testified that they are governed by 29 C.F.R. Part 1614 and EEOC Management Directive 110. I note that nothing in these regulations and directives forbids the Union from being present at the settlement discussions of formal EEO complaints. Luke AFB's Chief Equal Employment Opportunity Counselor testified that the difference between the initial informal stage of an EEO matter and the formal complaint

stage, is the former is confidential whereas the latter is "going public."

In light of all the foregoing I conclude that there was no confidentiality requirement that prevented the Union from exercising its right under § 7114(a)(2)(A) of the Statute, to be present at the formal discussion conducted on January 19, 1995.

Having concluded that Luke AFB violated § 7116(a)(1) and (8), it is recommended that the Authority issue the following Order:

Order

Pursuant to Section 2423.29 of the Authority's Rules and Regulations, and Section 7118 of the Federal Service Labor-Management Relations Statute, Luke Air Force Base, Arizona shall:

1. Cease and desist from:

a. Failing or refusing to give the American Federation of Government Employees, Local 1547 advance notice and the opportunity to be represented at formal discussions with bargaining unit employees concerning any grievance or any personnel policy or practices or other general conditions of employment, including formal EEO complaints.

b. In any like or related manner, interfering with, restraining, or coercing employees in the exercise of rights assured to them by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative actions in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

a. Through its Chief Equal Employment Opportunities Counselor, provide the American Federation of Government Employees, Local 1547, advance notice and the opportunity to be represented at formal discussions with bargaining unit employees concerning mediation or investigation of formal EEO complaints.

b. Post at Luke Air Force Base, Arizona copies of the attached Notice to All Employees on forms furnished by the Federal Labor Relations Authority. Upon receipt of the forms, they shall be signed by the Commander, Luke Air Force

Base, and they shall be posted and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that these Notices are not altered, defaced, or covered.

c. Pursuant to Section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Federal Labor Relations Authority, Denver Region, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, DC, September 13, 1996

SAMUEL A. CHAITOVITZ
Chief Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of the Air Force, Luke Air Force Base, Arizona violated the Federal Service Labor-Management Relations Statute and has ordered us to post and abide by this notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT fail or refuse to give the employees' exclusive representative, the American Federation of Government

Employees, Local 1547 (the Union), advance notice and the opportunity to be represented at formal discussions with bargaining unit employees concerning any grievance or any personnel policy or practices or other general conditions of employment, including meetings to mediate or investigate formal EEO complaints filed by bargaining unit employees.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL, through the Chief EEO Counselor, give the Union advanced notice and the opportunity to be represented at formal discussions with bargaining unit employees concerning mediation or investigation of formal EEO complaints.

(Activity)

Date:

By:

(Signature)

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provision, they may communicate directly with the Regional Director for the Federal Labor Relations Authority, whose address is: 1244 Speer Boulevard, Suite 100, Denver, Colorado, 80204, (303) 844-5224.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by SAMUEL A. CHAITOVITZ, Chief Administrative Law Judge, in Case No. DE-CA-50519, were sent to the following parties in the manner indicated:

CERTIFIED MAIL:

Major Michael Wells, Esq.
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Dated: September 13, 1996
Washington, DC