

In the Matter of

DEPARTMENT OF DEFENSE  
LANSING MILITARY ENTRANCE PROCESSING  
STATION  
LANSING, MICHIGAN

And

Case No. 16 FSIP 87

LOCAL 1658, AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO

### **ARBITRATOR'S OPINION AND DECISION**

Local 1658 of the American Federation of Government Employees, AFL-CIO (Union or Local 1658), filed a request for assistance with the Federal Service Impasses Panel (Panel) to resolve a negotiations impasse under 5 U.S.C. § 7119 of the Federal Service Labor-Management Relations Statute, 5 U.S.C., § 7101, *et seq.* between it and the Department of Defense, Lansing Military Entrance Processing Station, Lansing, Michigan (Employer or Lansing MEPS).

Subsequent to an investigation of the request for assistance, which arose out of the parties' negotiations over an initial collective bargaining agreement (CBA), and involved their disagreement over Article 11, Standards of Dress, the Panel determined that the dispute should be resolved through face-to-face mediation-arbitration with the undersigned Panel Member Edward F. Hartfield at the Employer's Offices in Lansing, Michigan. The parties were informed that if a settlement was not reached during mediation, I would issue a binding decision to resolve the dispute. Consistent with the Panel's procedural determination, I conducted a mediation-arbitration on September 27, 2016, in the Commander's Conference Room at the Lansing MEPS facility. Because the mediation portion of the proceeding failed to result in a voluntary settlement, I am required to issue a final decision resolving the parties' dispute. The parties requested, and I granted them an opportunity to submit post-hearing briefs. In reaching this decision, I have considered the entire record in this matter, including the parties' final offers, and their post-hearing briefs.

### **BACKGROUND**

The Employer is one of 66 MEPS located throughout the country. Together they form the United States Military Entrance Processing Command (USMEPCOM). USMEPCOM is a separate Department of Defense (DOD) agency, staffed with personnel from all branches of the United States (U.S.) Military. The mission of USMEPCOM is to process individuals for enlistment into the armed services based upon DOD approved peacetime and mobilization standards. Employees at the Lansing MEPS implement that mission by conducting background

screenings on applicants for military service and issuing tests that evaluate their aptitude and physical qualifications for induction into military service. The Union currently represents 22 bargaining unit employees at the Lansing MEPS Facility.

### ISSUE AT IMPASSE

The sole issue before me involves jeans wear. Employees are currently limited to wearing “denim” (jeans of any color) on Fridays - referred to at Lansing MEPS as “Casual Fridays” – except when the Employer unilaterally decides, on a case-by-case basis, to find that special circumstances justify jeans wear on other days. The Lansing MEPS’ Commander has, for example, allowed employees to wear jeans on “Training Days” and on days when employees are involved in Readiness Support Group (RSG) functions or office-wide events like “pot luck” dinners. The Union’s proposal would permit jeans wear on a daily, routine basis. The Employer wants to maintain the *status quo*.

### POSITIONS OF THE PARTIES

#### 1. The Employer’s Position

The Employer presented a power point at the mediation-arbitration titled “FSIP Discussion Points.” In it, the Lansing MEPS’ goal, in regards to” Employee Dress”, is to “implement and enforce an Employee Dress Policy, for both military and civilian members, that accurately and faithfully presents the Lansing MEPS in a manner congruent with its solemn mission and position with the community.” The Employer believes that the practice it currently allows, which it describes as “business casual,” fulfills that goal. Denim slacks (jeans) are not allowed Mondays through Thursdays “unless otherwise directed, based on operational requirements.” They are permitted, however, on “Causal Fridays” if accompanied by MEPS logo shirts and tops. In addition, employees may wear seasonal/activity appropriate attire (to include jeans, shorts, athletic shoes, *etc.*) on Training Days and “other days when the MEPS is closed to applicants and during other designated MEPS events (e.g., RSG, potlucks, *etc.*).”

The Employer explains that its policy is appropriate and necessary because the MEPS facility – its recruiters and other personnel – are the first contacts that civilian applicants and their families have with the U.S. Military. Therefore, it is imperative that their first impression be positive; their introduction, professional. This is even more important for the Lansing MEPS because it is in a “remote” location – that is, it is not part of or attached to a military or air force base or port. Therefore, being immediately represented in the best light becomes even more important. Another factor that makes the Lansing MEPS unique is that it is located in a state capital. Because of its location, military and civilian dignitaries often visit the Lansing MEPS. These visits are typically accompanied by the press. There were several such visits in the 15 months preceding September 27, 2016, and more are pending.<sup>1/</sup> The Employer believes that

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<sup>1/</sup> Those expected to appear include two state senators, the Lieutenant Governor of Michigan, Recruiting Officers from the Army and the Marines, two former U.S. Congressmen, one current U.S. Senator, and, the USMEPCOM Commander of the USMEPCOM Eastern Sector.

the MEPS' highly visible image and unique position in the Lansing community would be damaged if the public were to see employees wearing jeans on a daily basis.

The Employer recognizes that the USMEPCOM's Headquarters Office in Chicago, Illinois has issued "Dress, Appearance and Hygiene Standards"<sup>2/</sup> that allow denim pants in dark or neutral colors to be worn on a daily basis. The Employer believes, however, that the policy memorandum issued by USMEPCOM is not appropriate for the Lansing MEPS because the Headquarters' mission does not require daily contact with the public. The Employer bases this belief on its conclusion that the Headquarters Office does not process applicants, host applicants and their families, or swear applicants into US military service. The Employer also fears that adoption of the Union's proposed language would subject the Employer to a barrage of regular grievances because of the difficulty in determining whether jeans being worn meet the undefined, ambiguous standard used in the Headquarters' PM 6-22: "Denim pants in dark or neutral colors."

Finally, the Employer argues that since the Union is the moving party in this case, it bears the burden of showing why a change to the Lansing MEPS longstanding dress practice is necessary, and the Union has failed to do so. The Employer points to the very high employee engagement scores in Lansing and asserts they support its conclusion that the working environment is already excellent without the need for wearing jeans on a regular basis.

## 2. The Union's Position

The Union's position is that employees should be allowed to dress in accordance with the national guidelines set by USMEPCOM's Headquarters Office for all civilian employees nationwide. Written for all Sector, Battalion and MEPS Commanders, as well as for their Directors and Staff Officers, PM 6-22 allows employees to wear "denim pants in dark or neutral colors" as long as they are "clean, in good condition, and free of obvious stains, rips, holes, or tears" (PM 6-22 at page 2).<sup>3/</sup> The Union points out that by not allowing employees to wear jeans on any day, including Friday, the Employer is maintaining a dress code for Lansing MEPCOM that is far more restrictive than the guidelines established for MEPCOM Commanders and their employees nationwide.

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<sup>2/</sup> Policy Memorandum 6-22, Dress, Appearance and Hygiene Standards, September 25, 2013 (PM 6-22) (Copy Attached).

<sup>3/</sup> Presented at the September 27, 2016 hearing as "AFGE Local 1658's Last and Best Proposal for Dress Code Impasse," the Union requests that:

Unit Employees Dress and Appearance Standards shall be the Dress and Appearance Standards contained in the CIVILIAN PERSONNEL POLICY paragraph of the Enclosed U.S. MEPCOM Policy Memorandum 6-22, dated September 25, 2013.

The Union points out that a number of nearby MEPS facilities have implemented dress policies that allow employees to wear jeans on a regular basis.<sup>4/</sup> Two others have incorporated a Memoranda of Agreement (MOA) into their collective bargaining agreements (CBAs) that describe items of clothing that are prohibited in paragraph 2 of the MOA. If an item of clothing is not included in a detailed list of excluded items, it is implicitly allowed so long as it is "free of stains, holes, or tears" and is "neat and clean in appearance."<sup>5/</sup> The Union attached other CBAs that do not contain an article on dress, include a negotiated MOA, do not establish a dress code, or describe what constitutes appropriate or inappropriate dress in any way.<sup>6/</sup> The Union stresses that it was unable to find a single CBA - or MOA included in a CBA - that prohibits jeans wear on a daily basis.

The Union points out that the Lansing MEPS has had a longstanding policy of allowing jeans to be worn for 3-4 months of the year, as part of its annual "Standards of Dress: Winter Considerations."<sup>7/</sup> The Union's best guess is that the Employer's existing policy permits employees to wear jeans 110 work days each year. The Employer has presented no evidence that any recruit or applicant, or any family member thereof, has ever complained about the dress of MEPS employees on any of those dates. Nor has a claim been made that there has been a reduction in productivity or quality. In the absence of complaints about employees' dress during the winter months or documented reductions in productivity or quality, the Union argues that employees should be allowed to wear jeans during the approximate 140 other days of the year. The Union concludes that the Lansing MEPS' proposal is based upon management's

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4/ The Union's September 19, 2016, pre-mediation-arbitration submission included the following: (1) jeans are allowed at the Cleveland MEPS because they are not included among the numerous items listed in eight (8) categories of clothing excluded in the Commander's December 15, 2015, Policy Letter; (Enclosure 1); (2) the Milwaukee MEPS follows USMEPCOM's PM 6-22, and, therefore, allows daily jeans wear (Enclosure 2); and, (3) the Indianapolis MEPS follows the Headquarters USMEPCOM Employee Handbook which allows employees to wear jeans on a daily basis (Enclosure 3).

5/ The Collective Bargaining Agreement between the Houston MEPS and Local 28, Laborers' International Union of North America (LIUNA) and the Collective Bargaining Agreement between the United States Recruiting Command and Local 28, LIUNA. (Enclosures 4 and 5).

6/ The Collective Bargaining Agreement between Pittsburgh MEPS and AFGE Local 1627; the Collective Bargaining Agreement between Maxwell, Air Force Base and AFGE Local 997; the Collective Bargaining Agreement between the St. Louis MEPS and Local 28, LIUNA; the Collective Bargaining Agreement between the San Antonio, Texas MEPS and Local 28, LIUNA; and, the CBA between United States MEPCOM and AFGE Local 725.

7/ See then MEPS Commander Adam J. Diaz' November 22, 2013, Memorandum for all Lansing MEPS Personnel regarding Standards of Dress: Winter Considerations, allowing employees to wear jeans (including corduroy) daily, from December, 31, 2013, to March 20, 2014 (Enclosure 7).

disagreement with “styles, modes of dress, and grooming now in fashion,” which the Union believes is contrary to the Headquarters U.S. MEPCOM’s PM 6-22 and all of the other MEPS’ iterations on appropriate dress it has found and presented.

### ANALYSIS & DISCUSSION

This case provided the Panel member with the opportunity to visit the Employer’s worksite and to personally observe employees, applicants, and managers perform their regular duties on a normal day of work. Recognizing that this was just one day, I was impressed by the number of people---both potential candidates and their families --- in the waiting room. I was also struck by the fact that none of the individuals present were formally dressed in dress shirts or wearing ties or anything that would equate with what one normally considers business casual dress. The most common form of dress, for both candidates and family members, appeared to be either tee shirts or sweat shirts with jeans. I did not find this to be surprising. Rather, given the increasingly informal dress standards of today’s society, I find myself wondering whether or not a more relaxed dress code than the Employer is proposing might, in fact, produce a more relaxed atmosphere for candidates and their families, one that is easier for them to relate to. This arbitrator has based his decision on the arguments raised by the parties, the evidence they offer in support of their positions, and this Arbitrator’s observations. A review of the parties’ positions and arguments will be critical in shedding light on the merits of this case.

The Employer argues that the Lansing MEPS is the first direct contact that many candidates will have with the military, and that it is critical that this contact reflect the solemn respect for rules and regulations and the dignity of military service. The Employer does not provide any data, empirical or anecdotal, that supports its argument that wearing jeans is neither professional nor in keeping with a professional image. What is more compelling, however, is that the Employer fails to present any indication that the wearing of jeans by employees during the winter months produced any complaints, negative comments or reactions, or resulted in any reductions in recruiting or assessment goals.

The Employer also argues that PM 6-22 does not apply to the Lansing MEPS Facility because the Headquarters mission does not require daily contact with the public. The Employer bases its argument on the fact that Headquarters does not process applicants, host applicants’ families, or conduct swearing in ceremonies. This claim, however, is not supported by the Background section of PM 6-22 which states:

For many applicants, visiting a Military Entrance Processing Station (MEPS) is their first exposure to a DoD facility. USMEPCOM is a professional work environment. We maintain that environment, in part, by requiring that the applicants we serve comply with a dress standard. Consequently, USMEPCOM personnel must also respect the work environment by adhering to appropriate dress and hygiene standards.

The Employer also maintains that because it is located in a state capital, the Lansing MEPS receives visits by civilian and military dignitaries on a regular and ongoing basis, and these visits are accompanied by the press and other media coverage. The Employer believes that if employees were wearing jeans during these visits, the Lansing MEPS would receive unflattering media coverage. Interestingly enough, however, the Employer has not provided any evidence that it has ever been embarrassed by its employees' dress on any previous such occasions. Nor did the Employer respond to the Union's offer, that if allowed to wear denim daily, employees would refrain from doing so when these special events occur, so long as Management gives the Union reasonable notice of the upcoming visit.

In a similar vein the Employer discussed a critical outreach program with local high schools, in which employees present the various service options and the benefits that military service offers to students, as another example in which presenting a professional image is very important. Again, the Union has offered to refrain from wearing jeans whenever engaged in school outreach programs.

The Employer also raised the possibility that adoption of the Union's proposed language would result in a dramatic increase in the number of disputes and grievances over whether the jeans being worn are, in fact, appropriate. However, the Employer made no effort to support this speculation by providing evidence of such a grievance in either USMEPCOM Headquarters or any of the MEPS facilities already embracing a jeans wear dress policy.

The Employer argues that the Union, as the party advocating for a change in *status quo*, has the burden of showing why the change is necessary and has failed to satisfy that burden. This argument is misplaced. The parties' dispute over Article 11, Standards of Dress, arose out of the parties' negotiations over an initial CBA when all of the terms and conditions of employment covered by the Statute were on the table for the first time. Accordingly, there is no relevant - *i.e.*, negotiated - practice over which the Union is proposing change. Instead, the Union is simply proposing to negotiate a different policy from the one the Employer was able to impose before the Union was certified and an obligation to bargain over it arose.

Finally, the Arbitrator wants to commend the Lansing MEPS and its Commander for their strong employee engagement scores. These scores represent a significant accomplishment which should be a source of pride and deserve recognition. However, the Arbitrator fails to see how, as claimed by the Employer, these scores would become lower if Lansing employees were allowed to wear jeans on a regular basis.

The most significant failure of the Employer in this case, however, is its inability or unwillingness to adequately address the Union's argument that other MEPS units (see footnote 3-6) either specifically allow employees to wear jeans on a regular basis or do not prevent them from doing so, other than to assert without any proof that MEPS Stations that permit jeans wear are either in cities that are much bigger than or very different from Lansing.

The Employer would have had a chance of persuading the Arbitrator to adopt its position if it had provided some meaningful defense to the Union's evidence in this regard. Instead,

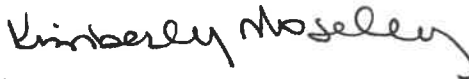
however, the Employer simply notes that it is "suspicious of the claims made by the Union that other facilities allow jeans on a daily basis."

DECISION

Pursuant to the authority vested in me by the Federal Service Impasses Panel under the Federal Service Labor-Management Statute, 5 U.S.C. sec. 7119, I hereby order that the parties in this case adopt the following modified version of the Union's proposal:

Unit Employees Dress and Appearance Standards shall be the Dress and Appearance Standards contained in the Civilian Personnel Policy paragraph of the Enclosed U.S. MEPCOM Policy Memorandum, 6-22, dated September 25, 2013, with the following exceptions:

- 1) Whenever the Employer provides at least one week's advance notice of the planned visit of a local, state, or national dignitary or VIP, whether civilian or military. In such situations, employees will refrain from wearing jeans.
- 2) Whenever employees are scheduled to perform external outreach such as, but not limited to, visits to schools and community colleges, employees will refrain from wearing jeans.

  
for Edward. F. Hartfield  
Arbitrator

December 21, 2016  
St. Clair Shores, Michigan



**DEPARTMENT OF DEFENSE**  
HEADQUARTERS, UNITED STATES MILITARY ENTRANCE PROCESSING COMMAND  
2834 GREEN BAY ROAD  
NORTH CHICAGO, ILLINOIS 60064-3091

J-1/MEHR-CP

SEP 25 2013

MEMORANDUM FOR SECTOR COMMANDERS  
BATTALION COMMANDERS  
MEPS COMMANDERS  
DIRECTORS AND SPECIAL STAFF OFFICERS

SUBJECT: Policy Memorandum 6-22, Dress, Appearance and Hygiene Standards

**PURPOSE.** To provide guidelines on what is appropriate and inappropriate attire in a professional customer service organization.

**APPLICABILITY.** This policy applies to all military personnel and to civilian employees of the United States Military Entrance Processing Command (USMEPCOM) who are not members of a bargaining unit. Bargaining unit members should comply with the dress and appearance standards contained in their collective bargaining agreement, if any.

**BACKGROUND.** As representatives of the Department of Defense (DoD), USMEPCOM personnel frequently come into contact with personnel from other federal activities, senior DoD officials, and the public (i.e. applicants and their family members.) For many applicants, visiting a Military Entrance Processing Station (MEPS) is their first exposure to a DoD facility. USMEPCOM is a professional work environment. We maintain that environment, in part, by requiring that the applicants we serve comply with a dress standard. Consequently, USMEPCOM personnel must also respect the work environment by adhering to appropriate dress and hygiene standards.

**RESPONSIBILITIES.** Supervisors are responsible for monitoring and enforcing this policy. If a USMEPCOM member's appearance or hygiene fails to meet USMEPCOM policy standards, the appropriate supervisor will hold a private discussion with the individual to address the issue. Verbal warnings are appropriate for a first offense, but personnel who persistently violate this policy are subject to disciplinary action under the Uniform Code of Military Justice or Army Regulation 690-700, Chapter 751, Table 1-1: Table of Penalties for Various Offenses, as appropriate. A commander, director, or special staff officer may send an individual home (in an administrative leave status) to remedy an appearance or hygiene issue only when that individual's appearance or hygiene is causing an actual disruption to good order and discipline in the workplace.

**POLICY.**

**HYGIENE.** It is the right of applicants to be served by staff members who maintain high standards of personal hygiene, and a related right of co-workers to expect a non-offensive physical work environment. All personnel should report at the beginning of each day in clean clothing, free of foul breath, body odor, and with a clean face, hands, and fingernails. Personnel are expected to take reasonable steps to maintain these standards throughout the workday. Excessive use of fragrance (e.g. perfume, cologne, or aftershave) is discouraged as it may trigger allergic reactions by applicants, other visitors, and co-workers when used in large quantities.



**MILITARY PERSONNEL.** Dress and grooming standards for military personnel are set forth in Service regulations and USMEPCOM Policy Memorandum 1-4.

**CIVILIAN PERSONNEL.** Civilian personnel within USMEPCOM are expected to wear clothing that presents a professional, clean, inoffensive, and neat appearance. No order or policy could possibly address all that is acceptable or unacceptable civilian clothing. However, personnel should take personal pride in their appearance.

1. While this policy is not designed to take away the freedom of individual dress, personnel are expected to comply with the following guidelines for professional attire:

APPROPRIATE	INAPPROPRIATE
Dress shirts	Tops which do not cover the shoulders and midriff
Collared sport/polo shirts	T-shirts with graphics, cartoons, or slogans
Blouses/knit tops	Sweatshirts
Pants/slacks	Sweatpants
Dressy crop/ Capri pants	Overalls
Denim pants in dark or neutral colors	Shorts
Dresses	Track/athletic apparel
Skirts/Culottes	See through clothing
Suits	Skin tight clothing (e.g. spandex pants; bike shorts)
Sweaters	Beach shoes/flip flops
Sport coats/blazers/dress jackets	Athletic headbands
Ties/dress scarves	Hats and head coverings (unless required for religious or medical purposes)
Dress shoes/boots/sandals	
Athletic shoes	

2. All clothing must be clean, in good condition, and free of obvious stains, rips, holes, or tears (including intentional, "fashionable" distressing).

3. Personnel are expected to wear appropriate undergarments. Undergarments may not be worn as outer garments. All clothing should cover the body so that an employee's undergarments are not exposed while performing routine tasks. Dresses and skirts should be at a length at which one can sit comfortably in public, but no shorter than four inches above the knee.

4. Clothing items and tattoos containing words or images which are lewd, obscene, profane, sexually suggestive or that advocate or glorify alcohol, the use of illegal drugs or other unlawful conduct are prohibited. Additionally, clothing that contains images which signal gang affiliation, or which denigrate any foreign, ethnic, religious, or racial group is strictly prohibited. Offensive tattoos must be covered in the workplace.

5. Hair, including mustaches and beards, must be clean, neat and controlled. Hair should be styled in a manner appropriate to a business setting. Extreme or eccentric hairstyles and use of dyes, tints or bleach colors (such as blue, pink, green, orange, bright red, and fluorescent or neon colors) that detract from a professional appearance are inappropriate. Supervisors are expected to use good

judgment in determining if the style or color of hair is acceptable based upon the overall effect on the individual employee's appearance.

6. Jewelry, such as earrings, necklaces, bracelets, and rings are acceptable as long as they do not interfere with the ability to perform assigned duties (including operating any equipment or performing testing or medical procedures.) Visible body piercings (other than earrings) are inappropriate in the workplace and must be removed or covered as appropriate.

#### MEDICAL PERSONNEL.

1. All personnel working in a MEPS Medical Section must wear closed-toe shoes IAW USMEPCOM Regulation 40-9, paragraph 3-6b (6.)

2. Chief and Assistant Medical Officers may opt, but are not required, to wear white clinician coats (smocks) provided and laundered at government expense.

3. Civilian medical technicians:

a. Medical technicians will be provided two white medical attendant coats, purchased and laundered at government expense. These medical attendant coats are not personal protective equipment and will not be worn by technicians working in laboratories.

b. Medical technicians also have the choice of wearing surgical scrubs they buy, maintain, and launder at their own expense. Surgical scrubs may be of any color, but must present a professional and neat appearance. Surgical scrubs are not authorized for wear by personnel other than medical technicians.

c. Medical technicians must wear either a medical attendant coat or surgical scrubs when in contact with applicants.

4. Military medical technicians should follow their service uniform regulations regarding wearing the white attendant coat. Military medical technicians who both are authorized and desire to wear them will be provided two medical attendant coats, purchased and laundered at government expense.

TEMPORARY DUTY (TDY) AND TRAVEL. Personnel in a TDY status are expected to comply with this policy while performing official duties at the TDY site, and while traveling during their regular duty hours. Military members who opt to wear civilian clothing while traveling should ensure their attire meets the guidelines set forth in this policy.

#### EXCEPTIONS.

1. There may be occasions, such as training days, organization days, office clean up days, or periods of harsh or inclement weather conditions (including lack of adequate heat or air conditioning inside the work facility) when "dressing down" is appropriate. Commanders, directors, and special staff officers may relax the dress policy for personnel on these occasions.

2. A commander, director, or special staff officer may, from time to time, designate other days as dress down days or authorize wearing of specific clothing (e.g. sports jerseys or Hawaiian shirts) in the interests of staff morale.

3. Nothing in this policy is intended to interfere with approved medical accommodations or bona fide religious practices. Personnel who require an exception to this policy for medical or religious reasons should contact their supervisor.

**USMEPCOM LOGO CLOTHING.** Supervisors may not require that personnel purchase clothing items bearing the USMEPCOM unit crest or name of a USMEPCOM unit, directorate, or special staff office. However, units, directorates and special staff offices may facilitate procurement of such items for personnel to purchase at their own expense, should they desire to do so. USMEPCOM collared shirts (dress or polo) are appropriate work attire. Casual USMEPCOM T-shirts created for Organization Day or athletic/recreational events are not appropriate work attire.

POC for this issue is Chief, Civilian Personnel Division, J-1/MEHR-CP, (847) 688-3735, email [osd.north-chicago.usmepcom.list.hq-j1-mehr-cp-civ-personnel@mail.mil](mailto:osd.north-chicago.usmepcom.list.hq-j1-mehr-cp-civ-personnel@mail.mil).



K. J. Maloney  
Col, USMC  
Commanding