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

MARINE CORPS LOGISTICS BASE, BARSTOW, CALIFORNIA Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1482, AFL-CIO Charging Party	Case No. 8-CA-70080

Deborah S. Wagner, Esq.
For the General Counsel

Mr. William M. Petty
Major Charles W. Dorman
For the Respondent

Before: ELI NASH, JR.
Administrative Law Judge

DECISION

Statement of the Case

This is a proceeding under the Federal Service Labor-Management Relations Statute, 92 Stat. 1191, 5 U.S.C. section 7101 et seq. (herein called the Statute). It was instituted by the Regional Director of Region 8 based upon an unfair labor practice charge filed on November 10, 1986 an by the American Federation of Government Employees, Local 1482, AFL-CIO (herein called the Union) against Marine Corps Logistics Base, Barstow, California (herein called the Base

or Respondent). The Complaint alleged that Respondent violated section 7116(a)(1) and (5) of the Statute by unilaterally changing an existing practice whereby employees were allowed to seek advance sick leave without first exhausting their annual leave, without notifying the Union and affording it an opportunity to negotiate over the change and/or the impact and implementation.

Respondent's Answer denied the commission of any unfair labor practices.

A hearing was held before the undersigned in Barstow, California at which the parties were represented by counsel and afforded full opportunity to adduce evidence and to call, examine, and cross-examine witnesses and to argue orally. Timely briefs were filed by the parties and have been duly considered.

Upon consideration of the entire record in this case, including my observation of the witnesses and their demeanor, I make the following findings of fact, conclusions of law, and recommendations.

Findings of Fact

Mrs. Polly Walker is employed by Respondent as a payroll clerk. Walker is a bargaining unit employee. Sometime in August 1986, Walker notified her supervisor that she desired to take six weeks of maternity leave beginning in September 1986. Walker requested that she be allowed to take advance sick leave since she did not have enough sick leave to cover the entire six week period. Walker submitted this request following normal procedure and included along with the appropriate leave slips a doctor's certificate. Following normal channels, the supervisor made a recommendation and forwarded the documents up the chain of command. Final decision making authority on such a request rests with the Division Director, which in Walker's case was Major Daniel S. Hemphill, the Director of Resources Management Division (RMD).

Respondent's facility is made up of 5 Divisions of varying size. RMD is one of those 5 Divisions. RMD has about 100 to 120 employees. Hemphill became RMD, Director around August 1986, and Walker's request was the first, occasion he was required to make a decision on a civilian employee's request for advance sick leave.

Sometime on September 8, 1986, Walker was called to a meeting with her supervisor Flo McPeek and her second line supervisor, Accounting Officer Sam Shenouda. Shenouda informed Walker that she could not have advance sick leave for maternity purposes, and that she had to use up all of her sick leave and annual leave before she could have leave without pay. Since she was a payroll clerk, Walker was aware that advance sick leave requests had been approved because she had processed those requests as part of her job. Walker was also aware that such advanced sick leave requests had been approved in maternity cases and she told this to Shenouda, to no avail. That same day, Shenouda gave Walker a letter signed by Hemphill, which denied the requested advance sick leave and instructed her to request a combination of sick leave, annual leave, and leave without pay. Seeing this, Walker submitted a request to use up her sick leave, then take the remainder of the six weeks of maternity leave as leave without pay.

Thereafter, on September 10, 1986, Shenouda informed Walker that the sick leave without pay request also had been denied. According to Shenouda, leave without pay could not be granted unless Walker first used up all her annual leave. He also informed Walker that he would give her something in writing, which later he did. Walker tried to tell Shenouda that advance sick leave requests had been granted in the past for maternity leave, but again Shenouda shrugged off Walker's suggestion, asserting that the Base had not been following the regulation correctly.

When her attempts to persuade Shenouda failed Walker contacted Oscar Carr, the first Vice-President for the Union. Carr made an appointment to meet and discuss this matter with Hemphill. When the two met in mid-September, Carr asked for Hemphill's rationale for refusing the requested advance sick leave, when other Divisions on the Base were granting it. Hemphill replied that the policy was not being administered properly, and they were trying to correct it. Carr pointed out that the employees working in Hemphill's Division process advance sick leave claims after they are approved, so they were well aware of the practice on the Base, and treating them differently would affect their morale. Hemphill said he would take the matter under consideration and contact the Civilian Personnel Office (CPO) for advice.

Following the conversation with Hemphill, Carr himself went to CPO and spoke with Rick Sanetti, the Labor Relations Specialist who generally advises Hemphill's division.

Sanetti explained to Carr that Nancy Haley, the Acting Head of Labor Relations, in the absence of Esther Gonzales, who heads that organization, was handling this particular issue. It is uncontroverted that Sanetti told Carr that he would have advised the Major to go ahead and approve the leave and then if Hemphill wanted to change the policy, do so afterwards. Carr asked Sanetti and another Labor Relations Specialist Pat Smith to speak to Nancy Haley. He also gave Sanetti the names of about a dozen employees on the Base who had been granted advance sick leave. Respondent denied in an October 29, 1986 letter that these cases established "granting of sick leave for maternity purposes regardless of the amount of annual leave the employee has available." However, the parties stipulated that a past practice existed whereby advance sick leave would not be denied because of the amount of annual leave an employee had available.

Shortly thereafter Carr checked with Hemphill to see if any decision had been made regarding Walker. Hemphill informed Carr that he would wait until Esther Gonzales returned so he could get her recommendation before he made his final decision. After Gonzales returned, Hemphill called Carr and arranged another meeting.1/ At this meeting, Hemphill indicated that he had reconsidered the matter, and he was going to stick by his original decision to deny the requested advance sick leave. He explained to Carr that he was basing his decision on the Base order and the advice he received from CPO, who told him that Base policy was to require an employee to use their sick leave and annual leave before being permitted to use advance sick leave. Carr attempted to exlpain, to no avail, that the ultimate decision was up to the Division Director. Consequently, Carr was unsuccessful in his attempts to convince Hemphill that he was in error regarding the Base policy.

Since Hemphill had indicated this decision was based on Gonzales' recommendation, Carr went to Gonzales to discuss it with her. When Carr asked why she advised Hemphill not to grant the advance sick leave to Walker, Gonzales told Carr they don't award people for getting pregnant. Carr

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1/ Hemphill's memorandum for the record indicates this meeting took place on September 25, 1986. Hemphill did not testify regarding this meeting, but his memo corroborates Carr's account.

insisted it wasn't a question of "awarding" anyone, just treating Walker the same as any other employee who had requested advance sick leave. Carr pointed out that such leave had been approved for maternity purposes in the past when properly documented. Gonzales asserted that it did not matter whether or not advance sick leave had been granted in the past, the Base Order clearly says that a Division Director has the authority to grant or deny the request.2/

By this time, Carr had come to the conclusion that Respondent was not willing to resolve this matter informally. Carr, in what was apparently a final attempt to correct the situation, sometime around October 7, 1986, had the Local President send a letter to the Commanding General to notify him of a potential unfair labor practice. The letter stated, in part:

> 1. Recently I was apprised of a change in past practices at the MCLB, Barstow, which adversely effects the bargaining unit. This change pertains to the granting of advanced sick leave for maternity purposes. . .
>
> 3. Past practice at MCLB, Barstow, has been to grant advanced sick leave for maternity purposes regardless of the amount of annual leave the employee has. . .
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> 4. I hereby request that Ms. Polly Walker be granted 240 hours of advance sick leave as she requested on 28 August 1986. And further, if the MCLB wishes to change this past practice, that we enter into negotiations over this matter. The Union's Chief Negotiator will be Mr. Oscar Carr, Jr., 1st V.P.

As already noted, the Union received a response, dated October 29, 1986, from Gonzales. Her response was a follows:

2/ Gonzales did not recall meeting with Carr or discussing Walker's request with him. However, her letter of October 29, 1986 to Union President Boyce confirms that she met with Carr over the matter.

> Your letters of 7 and 22 October 1986 have been forwarded to this office for response. Although you allege a unilateral change in working conditions without proper negotiations with AFGE, you in essence appear to be requesting reconsideration of the decision of Major Hemphill, Director Resources Management Division (RMD) on a request for advanced sick leave. Mr. Carr, your designee for negotiations, was advised that there was no substantial basis for his allegations of granting advanced sick leave for maternity purposes regardless of the amount of annual leave the employee has available . . . Be advised, however, that this command will meet its obligation to bargain if there is any change on the issue of advanced sick leave and/or maternity leave.

After the instant charge was filed, a second employee in Hemphill's division, Mrs. Roxanne Cabello, went on maternity leave beginning on January 20, 1987. Cabello had about 9 hours of sick leave and 47 hours of annual leave at the time her baby was born. Since Cabello planned to work until the baby was born, her supervisor instructed her to wait until she actually had the baby to submit leave slips, and she agreed. After the baby was born, Cabello called her supervisor, Gunnery Sergeant Williams, and asked whether it would be possible for her to get advance sick leave rather than using up all her annual leave. After checking into the matter, her supervisor told her that an employee with less than forty hours of annual leave can get advance sick leave without using annual leave first, but an employee with more than forty hours of annual leave must first use up that leave before requesting advance sick leave. Cabello told her supervisor she was upset because it seemed as if she was being penalized for having 47 hours of annual leave, and asked that her supervisor check to see whether that was still the policy, because she had heard differently. A few days later, Williams called back and told Cabello he still did not know, but he asked Cabello to fill out three sets of leave slips and submit them when she went so she would not have to come back in again if the requested sick leave was denied.3/ Cabello agreed. As submitted in these three sets

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3/ Cabello had given birth by Cesarean Section, and was under the doctor's orders to stay off her feet, not drive a car, etc. so it would be difficult for her to submit a second set of leave slips if the first request was denied.

of leave slips, her first choice was to use her accrued sick leave, then 120 hours of advance sick leave, the second choice was to use her accrued sick leave, accrued annual leave, then advance sick leave, and her third choice was to use accrued sick and annual leave, then take the remaining of the time as leave without pay.

A few days later, Cabello's second line supervisor, Shenouda, talked to her on the telephone regarding her requests and inquired whether she intended to return to work. Cabello assured Shenouda she would be coming back to work, and explained that she had requested the advance sick leave because she might need to keep a few days of annual leave in case her baby got sick.

Subsequently, Shenouda called her back and told her that they would grant her 80 hours of advance sick leave, but not the 120 hours she had originally requested. This would take her through the fifth week of her maternity leave. Shenouda told her that for the last week she had a choice of taking annual leave, leave without pay, or she could go back to work early. Cabello explained to him that she was not allowed to do any physical activity for six weeks, so going back to work early was not an option. She also told him that she needed to have a full pay check because of the bills coming in. Shenouda explained that as he calculated it, she would have 15 hours of annual leave remaining when she returned to work. At first she argued about that, because as she calculated it, this would have her in a leave without pay status after using up all of her sick leave, annual leave, and the 80 hours of advanced sick leave. However, Shenouda insisted that when properly calculated she would actually have fifteen hours of annual leave remaining after she returned to work. Under these circumstances, Cabello agreed to accept this option, but made it clear to Shenouda that she did not want to use her annual leave that last week. Shenouda told her the only reason he would approve the annual leave for the last week was because she had had an operation; it wasn't a "normal" delivery.

During the same period of time, January 1987, it came to Hemphill's attention that another employee in Material Division had requested 247 hours of advance sick leave, and that the Director of that Division had approved the request. Hemphill as previously noted is the Comptroller at Respondent's facilities as well as the Director of RMD. As Comptroller, Hemphill is responsible for monitoring the expenditures of the Base, and ensuring that payments are

proper. When this request came to his attention, he took the opportunity to have his Accounting Officer Sam Shenouda compose a letter for his signature, informing the Director of Material Division of the new policy regarding advance sick leave in maternity cases which he had put in effect in his own Division back in September. This letter, if sent, would have directed the Material Division to grant accrued sick leave, then accrued annual leave, then leave without pay in that order. According to Hemphill, advance sick leave could only be granted if there were some sort of complications.

In late January or early February 1987, just before this letter was sent, Gonzales requested a meeting with Hemphill and Shenouda to discuss the criteria used by the Division for granting or rejecting a request for advance sick leave. According to Gonzales, she did not realize until this time that RMD had two new restrictions on the use of advance sick leave. First, they were requiring the employees to use their annual leave prior to granting advance sick leave, and second, they were prohibiting any use of advance sick leave in a maternity case unless the pregnancy was abnormal or there were complications. At this meeting, she explained to them that a pregnancy need not be abnormal, and an employee does not have to exhaust annual leave, prior to granting advance sick leave. The only annual leave which must be used is that which would otherwise be subject to forfeiture. Thus Gonzales' testimony affirms that in maternity cases the practice at the Base prior to Hemphill's interpretation had been to allow advance sick leave without exhausting other leave. Hemphill and Shenouda showed Gonzales the letter which they were planning to send to the Material Division, and Gonzales recommended that the letter not be sent, because they were misinterpreting the policy and the regulations.

Subsequent to this meeting, Gonzales was concerned that there might be other misinterpretations of the policy or the Base regarding advance sick leave for maternity cases, so she decided to issue a letter to the Division Directors setting out the appropriate policy. More importantly, the letter emphasizes that neither the Base Order nor the Master Labor Agreement precludes the granting of advance sick leave in maternity cases, and furthermore they do not require that annual leave be exhausted prior to granting advance sick leave.

Respondent maintains that sick leave advances are governed by the following:

a. The applicable DON regulation, CMMI 630.S4, provides, among other things, that:

(1) Advances of sick leave are to be limited to deserving cases of serious disability or ailments when, in the opinion of the Commanding Officer and in accordance with local policy, the exigencies of the situation so require.

(2) [In determining whether to grant an advance of sick leave,] there must be a reasonable assurance that the employee will return to duty.

(3) Sick leave will ordinarily not be advanced in maternity cases.

b. The applicable base order, BO 12630.5G, provides among other things, that:

(1) Up to 240 hours of sick leave may be advanced in deserving cases of serious disability or ailments when in the opinion of the Division Director the exigencies of the situation so require.

(2) Employees must exhaust all accumulated sick leave and any annual leave they might otherwise forfeit (use or lose) before they may be advanced any sick leave.

(3) Sick leave will not be advanced to an employee with an abusive sick leave record.

(4) In the granting of advanced sick leave, there must be a reasonable expectation that the employee will remain employed for the period necessary to liquidate the sick leave indebtedness.

(5) An absence covering pregnancy and confinement is to be treated like any other medically certified temporary disability, and may result in granting a combination of sick leave, annual leave, and leave without pay (LWOP).

Respondent asserts that neither the DON regulation nor the Base Order guarantees employees an advance of sick leave.

Conclusions

It has long been held that changes in procedures relating to leave are substantially negotiable so long as the changes do not interfere with a government-wide rule or regulation. See American Federation of Government Employees, Local 3488, 12 FLRA 532 (1982); U.S. Department of Interior, Bureau of Reclamation, 20 FLRA 587 (1985).

Also it is well established that a practice becomes a term and condition of employment where it can be shown that the practice was consistently exercised for a substantial period of time with the knowledge and consent of agency management. U.S. Immigration and Naturalization Service, 16 FLRA 1007 (1984); Social Security Administration, Mid-American Service Center, Kansas City, Missouri, 9 FLRA 229 (1982); Department of Defense, Department of the Navy, Polaris Missile Facility Atlantic, Charleston, South Carolina, 6 FLRA 372 (1981). Consistent with the above cited precedents the General Counsel argues that at the time of Walker's request for advance sick leave a practice existed at Respondent's Base, that bargaining unit employees would not be denied an advance of sick leave solely because the particular employee had accrued annual leave to his or her credit, except when the accrued annual leave would be subject to forfeiture at the end of the leave year. Thus the issue in the case according to the General Counsel's theory is whether or not any change was made in that past practice.

Respondent contends that it did not repudiate any past practice but merely deviated from the practice pertaining to advances of sick leave; that the denial of leave to Walker was inadvertent; isolated and, therefore, did not effect a change in the past practice in violation of the Statute. Respondent asserts that this case is controlled by VA Medical Center, 24 FLRA No. 57 (1986); U.S. Army Reserve Components Personnel and Administration Center, St. Louis, Missouri, 19 FLRA No. 40 (1985); Veterans Administration Medical Center, Muskogee, Oklahoma, 19 FLRA 1054 (1985); Internal Revenue Service, Detroit District, 12 FLRA 445 (1983).

The core of Respondent's argument is that it is illogical to assume that an isolated breach of a past practice, if one existed, amounts to a change in the past practice. I find no merit in this argument.

The facts in this case simply do not support the theories advanced by Respondent. Respondent does not deny that prior to Hemphill's action employees were allowed to use advance sick leave on the basis set out by the General Counsel. Nor does Respondent contend that the change advanced by Hemphill was not substantively negotiable or that a government-wide regulation requiring Hemphill's interpretation exists. Notwithstanding the above, Respondent denies that a new Base policy was implemented by or that an existing past practice was changed by Hemphill. Respondent defends basically on the premise that mistakes were made by Hemphill which were unintentional; that his errors were innocent and a misapplication or misinterpretation of existing regulations; and, that Hemphill's brief association with civilian employee matters should somehow excuse that error. These arguments ignore the issues of the case. After having admitted a past practice existed Respondent now attempts to justify a change in that past practice as merely a mistake on Hemphill's part. Such an attempt, in my opinion, completely ignores the fact that a practice existed and Respondent changed that practice unilaterally without notification or bargaining.

The parties stipulated the following:

> . . . on or about September 8, 1986, . . . a past practice existed whereby requesting unit employees in the Consolidated Marine Corps-wide bargaining unit . . . would not be denied an advance of sick leave solely because the employee had accrued annual leave to his or her credit, except when that annual leave would be subject to forfeiture at the end of the leave year.

In addition to the stipulation, Gonzales testified that two new restrictions were placed on the use of advance sick leave by RMD and Hemphill, and that the practice was altered by those restrictions. Walker also testified, without contradiction, that both she and McPeek informed Shenouda on September 10, 1986 that other Divisions were granting advance sick leave for maternity purposes. Shenouda responded only that the Base had not been following the regulation correctly. Similarly, Hemphill told Oscar Carr that the policy was not being administered properly and he wanted to correct it. Clearly Hemphill altered the policy based on his reading or misreading of the pertinent regulations. While such a misreading may have been based on his inexperience with civilian personnel or his

insensitivity to personnel practices relating to maternity cases, he nonetheless altered the Base policy. This altered policy was applied to Walker's situation in September; to Cabello's case in January, and in the Memorandum which Hemphill was prepared to present to the Material Division in February 1987. Had there been any other requests during the period in question the policy, as changed by Hemphill, undoubtedly would also have applied.

Whether Hemphill deliberately changed or misapplied the policy based on his belief that the Base was not properly following regulations is irrelevant. Likewise, whether he attempted in good faith to follow the Base practice, but misunderstood the existing policy, is also irrelevant. State of mind is not an element of proof necessary to establish a violation of the Statute. The Base Order Section 7(j), sets out the procedures regarding advance sick leave. Subsection (1) states: "the Division Director has the discretion to grant advance sick leave" but subsections (2), (3) and (4) provide guidelines for the exercise of that discretion. The mere fact that the Division Director must decide whether to grant or deny the requested sick leave does not give the deciding official the authority to establish new and additional requirements such as those established by Hemphill without first providing the exclusive representative with an opportunity to bargain. As a Division Director, Hemphill made a change in the requirement for advance sick leave for maternity cases, which applied to any of the employees in his Division who might seek advance sick leave. As Comptroller, Hemphill also took it upon himself to inform other Divisions of his view of the regulations, when those Divisions did not exercise their discretion in accordance with his views. In all the circumstances the promulgation of the change in policy was much broader than argued by Respondent.

Respondent's attempt to show that Hemphill acted without seeking any advice or guidance is equally unconvincing. Hemphill clearly elicited Gonzales' view on the matter in September 1986, when the Union first expressed its concern and at that time Hemphill agreed to reconsider his original decision. In fact Gonzales testified that as early as September Hemphill was informed by Sanetti that the matter should be compromised. However, Hemphill obstinately refused the offer and continued to reject Walker's application. In addition, the Union contacted the CPO both verbally and in writing, objecting to what it believed to be a change in a past practice of granting or denying requested advance sick leave without regard to the amount of annual

leave an employee had accrued. These facts clearly indicate that Hemphill did seek advice concerning the matter. Furthermore, Respondent's CPO was aware that a distinct problem existed concerning Hemphill's interpretation of the leave provisions in question.

Respondent asserts that only a single instance of misinterpreting the leave provisions was involved.4/ Consequently, Respondent must view the handling of the Cabello matter as a different situation. I do not agree, since it again was a request for maternity leave. Further, Respondent seeks to create a distinction between this case and other cases where an agency has been found to change an established past practice without bargaining and thus violate the Statute. Respondent apparently sees this case as an isolated breach of an employment practice where a question of differing or arguable interpretation was raised by the parties. This is not such a case. The facts here establish a condition of employment established by practice of the parties (i.e. "bargaining unit employees would not be denied an advance of sick leave solely because an employee had accrued annual leave to his or her credit"). The facts also establish a rigidity on Hemphill's part, even after he

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4/ With regard to whether more than a single instance was involved Hemphill testified that he had not required Cabello to use all of her annual leave. However, her Master Leave Record shows that she did use all of her annual leave, plus one hour leave without pay. Shenouda rejected her original request for 120 hours of advance sick leave and required her to use her annual leave if she wanted to be paid for the last week. Apparently, Shenouda did not feel it was necessary to inform Hemphill of his refusal to submit Cabello's original request for 120 hours of advance sick leave, since it was done in compliance with Hemphill's policy. Clearly, the amount of accrued annual leave was taken into account in determining how much sick leave could be advanced to Cabello, even if Hemphill claims Shenouda did not inform him of this. Hemphill also testified that in deciding to grant 80 hours of advance sick leave, he had taken into account the fact that Cabello had given birth by cesarean section, which in his mind meant it was not a normal pregnancy, but rather one with complications. Cabello it appears met all the requirements set out by Hemphill for the payment of advance sick leave in maternity cases. Consequently, the facts demonstrate more than one denial of leave in the matter.

was informed that he was wrong, which caused this policy to continue for approximately 5 months, from September through February when he was once again informed by Gonzales that the policy had been misinterpreted. This issue is totally different from that found in the cases cited by Respondent, Veterans Administration Medical Center, Muskogee Oklahoma, supra; Internal Revenue Service, supra, where, as Respondent points out, the cases were "decided in the context of contractual violations." Those cases are clearly distinguishable inasmuch as the consensus of opinion, even among Respondent's witnesses, here is that Hemphill misinterpreted the Base policy. Thus no question of whether the parties disagreed concerning the interpretation of the regulations or of the contract existed in this case. The only question here is whether Hemphill's misinterpretation, which he insisted on applying, constituted a change in the existing advance sick leave policy. In my view it does.

As stated previously, a practice becomes a term and condition of employment when it is consistently exercised over a substantial period of time, with the knowledge and consent of agency management. Once a condition has become a practice, it cannot be changed without first providing the exclusive representative with notice and an opportunity to bargain. In the instant matter, it is found that an established practice existed as stipulated by the parties at the hearing and as testified to by Gonzales. It is also found, that the existing practice was changed or altered by Hemphill's interpretation in September 1986 and his continued application of that practice in maternity cases through at least February 1987.

Accordingly, it is found that Respondent did change the past practice concerning advance sick leave which existed at the Base on September 8, 1986 without notice to or affording the exclusive representative the opportunity to bargain concerning the existing past practice.

In light of the foregoing, it is recommended that the Authority adopt the following:

ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, the Authority hereby orders that the Marine Corps Logistics Base, Barstow, California shall:

1. Cease and desist from:

(a) Unilaterally changing working conditions of bargaining unit employees regarding requirements for approval of advance sick leave for employees in the unit represented by the American Federation of Government Employees, Local 1482, AFL-CIO, without first notifying the exclusive representative and providing it with an opportunity to bargain concerning such change.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Statute.

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

(a) Notify and, upon request, negotiate with the American Federation of Government Employees, Local 1482, AFL-CIO concerning any intended changes in working conditions of bargaining unit employees regarding requirements for obtaining approval of advance sick leave.

(b) Rescind the requirement imposed in September 1986, that annual leave be exhausted before any request for advance sick leave would be given consideration and restore the prior existing past practice of evaluating requests for advance sick leave without regard to any annual leave subject to forfeiture.

(c) Make whole any employee, including but not limited to, Polly Walker, for any change to annual leave incurred as a result of the unilateral change in policy, by retroactively granting the requested advance sick leave and restoring any hours of annual leave used as a result of the unilateral change in policy.

(d) Post at its facility in Marine Corps Logistics Base, Barstow, California, copies of the attached Notice on forms to be furnished by

the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Commanding Officer and they shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to insure that such Notices are not altered, defaced, or covered by any other material.

(e) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region VIII, Federal Labor Relations Authority, 350 South Figueroa Street, Room 370, Los Angeles, California.

Eli Nash, Jr.

ELI NASH, JR.
Administrative Law Judge

Dated: March 28, 1988
Washington, D.C.

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT unilaterally change working conditions of unit employees regarding requirements for approval of advance sick leave for employees in the bargaining unit represented by American Federation of Government Employees, Local 1482, AFL-CIO, without first notifying the exclusive representative and providing it with an opportunity to bargain concerning such change.

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

WE WILL rescind the requirement imposed in September 1986, that annual leave be exhausted before any request for advance sick leave will be given consideration and restore the previous past practice of evaluating request for advance sick leave without regard to any annual leave subject to forfeiture.

WE WILL make whole any employee, including, but not limited to, Polly Walker, for any change to annual leave incurred as a result of this unilateral change in policy, by retroactively granting the requested advance sick leave and restoring any hours of annual leave used as a result of the unilateral change.

WE WILL notify and, upon request, negotiate with the American Federation of Government Employees, Local 1482, AFL-CIO, concerning any intended changes in working conditions of

bargaining unit employees regarding requirement for obtaining approval of advance sick leave.

_____
(Activity)

Dated: _____ 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 any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region VIII, whose address is: 350 South Figueroa Street, 3rd Floor, Room 370, Los Angeles, California 90071, and whose telephone number is: (213) 894-3805.