

# AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO



**John Gage**  
National President

**Jim Davis**  
National Secretary-Treasurer

**Andrea E. Brooks**  
National Vice President for  
Women and Fair Practices

7w/209260

August 30, 2005

Gordon England  
Acting Deputy Secretary of Defense  
1010 Defense Pentagon  
Washington, DC 20301-1010

Dear Secretary England:

As you know the American Federation of Government Employees represents approximately 200,000 employees at the Department of Defense, many of whom have been personally impacted by the BRAC Commission recommendations. On August 23, 2005, it appears you sent out a Memorandum that has been interpreted as a 'gag order' on personnel of the Department of Defense that is being interpreted in at least one component, DFAS, as applying to individuals even if they are speaking in their union capacity or in an unofficial personal capacity.

We have made several attempts to obtain clarification from officials at the Department, but have not gotten any acknowledgement that employees who are union officers may make comments in their statutorily protected capacity under title 5 Section 7102, or in their Constitutionally protected personal capacity under the First Amendment.

We request that you immediately clarify this Memorandum to comport with 5 U.S.C. §7102 and with the Constitution of the United States. Perhaps this is merely a misinterpretation of your meaning by mid-level staff, but since your Memorandum fails to make a distinction, we would ask that you instruct all personnel via an electronic mail message that personnel in either their union capacity strictly or personal capacity will not be subject to disciplinary action for comments made regarding BRAC Commission actions.



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Please let us know immediately about what remedial action will be taken regarding the August 23, 2005, so that union leaders may exercise their statutory rights and all DOD employees may exercise their First Amendment rights regarding the BRAC recommendations. Your staff can contact me if necessary at 202-639-6415.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Roth". The signature is written in a cursive style with a large initial "M" and a stylized "R".

Mark D. Roth  
General Counsel

cc: DOD General Counsel  
Claudia L. Bogard, Director, Corporate Communications,  
Defense Finance and Accounting Service  
Brigadier General Jan Eakle, DFAS  
Ward Morrow, Assistant General Counsel AFGE