

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

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DEPARTMENT OF THE ARMY,
U.S. ARMY ENLISTED RECORDS
AND EVALUATION CENTER,
FT. BENJAMIN HARRISON,
INDIANA AND FINANCE AND
ACCOUNTING OFFICE FOR THE
SECRETARY OF THE ARMY,
ST. LOUIS, MISSOURI
Respondent
and
AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 1411, AFL-CIO
Charging Party
.

Case No. 5-CA-70420

William E. Kumpe, Esquire
Major Edelbert F. Phillips
For the Respondent

Mr. Cornell Burris
For the Charging Party

John F. Gallagher, Esquire
For the General Counsel, FLRA

Before: GARVIN LEE OLIVER
Administrative Law Judge

DECISION

Statement of the Case

The unfair labor practice complaint alleges, in substance, that Respondent, at the Activity, U.S. Army Enlisted Records and Evaluation Center, Ft. Benjamin Harrison, Indiana, violated section 7116(a)(1), and (5) of the Federal Service Labor-Management Relations Statute (the

Statute), by refusing to bargain with the Charging Party (Union) concerning the substance and/or impact and implementation of changes in pay procedures and Respondent, at the Finance and Accounting Office for the Secretary of the Army, St. Louis, Missouri, violated section 7116(a)(1) of the Statute by interfering with the bargaining relationship which exists between the Activity and the Union by implementing these changes prior to the completion of bargaining.

Respondent's answer admitted the jurisdictional allegations as to Respondent, the Union, and the charge, but denied any violation of the Statute.

A hearing was held in Indianapolis, Indiana. The Respondent, Charging Party, and the General Counsel were represented and afforded full opportunity to be heard, adduce relevant evidence, examine and cross-examine witnesses, and file post-hearing briefs. The Respondent and General Counsel filed helpful briefs. Based on the entire record,^{1/} including my observation of the witnesses and their demeanor, I make the following findings of fact, conclusions of law, and recommendations.

Findings of Fact

The Department of the Army operates an Activity at Ft. Benjamin Harrison, Indiana known as the U.S. Army Enlisted Records and Evaluation Center (EREC). The Union is the exclusive representative of an appropriate unit of employees at EREC.

EREC and the Union are parties to a collective bargaining agreement which became effective on January 15, 1986. Article III provides, in pertinent part, as follows:

^{1/} The General Counsel's motion to correct transcript is granted. The General Counsel's motion to exclude the incorporation into Respondent's brief of Respondent's Exhibit No. 1 and the Watervliet brief is denied. General Counsel's motion to purge Respondent's Exhibits 3, 9, 13 and 15 from the record because they were not received during the hearing is granted in part. The exhibits will be marked "not received." Respondent's post-hearing motion to admit Respondent's Exhibits 17 and 18 and to substitute a more legible page for the last page of Respondent's Exhibit 8 are denied.

ARTICLE III - RESTRICTIONS

SECTION 1. In making rules and regulations relating to personnel policies, practices and matters affecting working conditions, the Employer shall satisfy any bargaining obligation imposed by Title VII of the Civil Service Reform Act of 1978 or this Agreement. This Agreement is a living document and the fact that certain conditions are reduced to writing does not eliminate the requirement to bargain over management initiated changes to personnel practices, policies and general conditions of employment which are not specifically addressed in this Agreement.

SECTION 2. No regulation or policy issued by higher authority (e.g., DA, OPM) on a negotiable issue will be implemented without satisfying the bargaining requirement. If during the life of this Agreement, a new regulation or policy is issued by higher authority which conflicts with the provisions of this Agreement, either party may request to reopen the applicable contract provisions for renegotiations by written notification to the other party. The written notification must be accompanied by all desired contractual language. Negotiations will begin within five (5) workdays of receipt of the written request unless the parties mutually agree to a different starting date. The parties will follow the ground rules for negotiations specified in Article XXXVII.

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SECTION 6. It is further agreed and understood that any prior Employer benefits, services, practices, and understandings on negotiable issues which have been mutually acceptable to the parties and which are not specifically

covered by this Agreement shall not be changed by the Employer prior to meeting, conferring or negotiating with the Union.

Article XXXVII sets forth the ground rules for impact and implementation bargaining. The ground rules are silent with respect to the status of a proposed change while a negotiability dispute is before the FLRA. Article XXXXII provides that, by mutual agreement of the parties, the agreement may be added to by supplemental agreements.

EREC and the Union are parties to a 1982 Memorandum of Agreement regarding paycheck distribution which is in full force and effect. This agreement required employees to have their paychecks mailed to either a designated mailing address or credited to an account with a financial institution absent a showing of "genuine hardship."^{2/} As a result of the memorandum, worksite distribution of paychecks was discontinued in 1982.

By memorandum dated June 3, 1987 the Director of Finance and Accounting, Department of the Army, notified subordinate units of a change in Army Regulation (AR) 37-105, Chapter 2, Payment Standards and Processing Requirements. The change provided, in pertinent part, as follows:

A standard Army payday will be set as the payday in which paychecks will be received by employees every 2 weeks. This is to insure that employees are paid on the same payday in each pay period. Paychecks must be received by the employees on the day designated as the standard Army payday. The lag between the close of the pay period and mailing or distributing of the checks

^{2/} Mr. Cornell Burris, President of the Union testified that the 1982 agreement did not apply to EREC (Tr. 47-48; General Counsel's Ex. 7). I credit the testimony of Mr. William Shultz, Labor Relations Officer, U.S. Army Finance and Accounting Center, that the agreement does apply to EREC and has been applied to EREC since 1982. Mr. Shultz' testimony was based on official records maintained in his office and received from the Union and actions taken by his office (Tr. 91-96, 119, 163-166; Respondent's Ex. 8).

will allow for accurately preparing the payroll; this includes applying control procedures and correcting errors. The lag will be 12 calendar days. All employees will be informed of the designated standard Army payday.

The memorandum stated that in accordance with the change "all Army Civilian Personnel will be paid on the same day, using the same pay period and a standard 12-day pay lag beginning no later than January, 1988. Payday for the pay period ending 2 January 1988 will be 12 days later, 14 January 1988." The memorandum made it clear that the substance of the change was nonnegotiable, but that the Activities affected could bargain with the Union over the impact and manner of implementation of the change.

The Department of the Army maintains a facility at St. Louis, Missouri known as the Finance and Accounting Office for the Secretary of the Army (FAO). FAO provides payroll services for about 85 activities, including EREC. Its activities include the issuance of payroll checks to the 186 EREC employees and about 8000 other employees.

By memorandum dated July 8, 1987 FAO, by Col. J. R. Bronson, advised EREC and other activities that to comply with AR 37-105 FAO would begin implementation of the standard payday (12 calendar day pay lag) and pay period and change from a 9 calendar day pay lag on August 8, 1987 with full compliance by September 30, 1987. The memorandum stated that the pay day lag would increase by one day each pay period until the pay day lag reached a 12 calendar day lag. It also stated that the change to the standard pay period would occur with a one week pay period covering the period September 6-12, 1987 on September 24, 1987 followed by pay periods of two weeks beginning October 8, 1987.

Col. Bronson set the date of August 8, 1987 to begin and the date of September 30, 1987 for full implementation instead of late December because he was expecting an additional 2500 account workload on October 1, 1987, an approximate 30% increase. He also expected some new personnel and wanted to get the change in place before that disruption. He also chose to provide a one week paycheck at first before the new standard two week schedule commenced, rather than to delay for a three week paycheck, in order to lessen the impact on employees of having to wait an extra week.

By a memorandum dated July 21, 1987 EREC, by Mr. William B. Shultz, notified the Union of the substance of the FAO memorandum and of its intention to change the pay lag period from 9 to 12 calendar days and to change the weeks in which employees would be paid according to the FAO instructions.

On July 24, 1987 the Union requested to bargain on the change to the 12 day pay lag period and the weeks in which employees would be paid. Subsequently, on July 31, 1987 the Union submitted three bargaining proposals which read as follows:

Union Proposal No. 1

The Employers agree that they will mail/deliver employees paychecks not later than 4 workdays after the end of a particular pay period. Pay periods are to mean the current 26 pay periods per year.

Union Proposal No. 2

Employees will not have to accept direct deposit of their pay as a condition of employment but will have one of the following options.

a. Employees will have their paychecks hand delivered and receive Leave and Earning[s] statement, etc, if they desire.

b. Employees may designate any address for the mail distribution of their paychecks, leave and earnings statement, etc.

c. Employees may have their paychecks deposit[ed] and credit[ed] to their personal account in any financial institution.

Union Proposal No. 3

If the Agency alleges non-negotiability of any of the Union's proposal on the basis of "Agency rules or regulations"

pursuant to 5 USC, Section 7117(a)(2), no implementation of any part of the Agency proposals will take place until a negotiability determination [has been] made by the FLRA. The Union will move promptly to request such a determination.

Thereafter, Respondent, represented by Mr. Shultz, and the Union, represented by Mr. Cornell Burris and another representative, met on August 10, 1987 in their one and only bargaining session on the subject. Mr. Shultz' response to the Union's first proposal was that it went to the substance of the change and was not negotiable according to the guidance he had received from the Department of the Army, which he furnished to the Union. The third proposal according to Mr. Shultz was outside the duty to bargain since it was a "ground rule" and therefore already covered by the existing collective bargaining agreement. Mr. Shultz stated that he was willing to negotiate on proposal no. 2 if the Union would drop that part of the proposal which made hand delivery of pay checks available to employees. He also asserted that the proposal was contrary to an existing agreement. Mr. Burris did not agree that the agreement applied to EREC and, in any event, asserted that the proposed change voided that agreement. At the end of the session, the parties agreed that they were at impasse.

In an August 13, 1987 memorandum, EREC notified the Union of the implementation of the changes beginning on August 17. The Union submitted a request for assistance to the Federal Service Impasses Panel (FSIP) also on August 13, 1987. EREC was notified of the FSIP request for assistance by certified mail.

EREC had no authority to order FAO to delay implementation until the completion of its bargaining obligation. However, sometime prior to the August 17 implementation, Mr. Shultz contacted Lt. Col. Bronson, FAO, and requested that FAO delay the implementation until negotiations were completed. Lt. Col. Bronson refused to delay the implementation. FAO began the implementation of the changes on August 17, 1987. Implementation was completed in October 1987.

After the August 10 negotiation session, no other bargaining sessions were held. No agreement was ever reached between the parties. The Union was never advised why the changes had to be implemented on August 17 as opposed to later dates. The Union never consented to the

implementation of the changes. On November 16, 1987 the FSIP declined to assert jurisdiction over the matter.

Prior to the change employees received their checks seven to nine days after the end of the pay period and could sometimes cash them upon receipt as they were sometimes dated on the day the checks were prepared. After the change, employees still received their checks seven to nine days after the end of the pay period, however, they were not dated until the actual designated payday and could not be cashed until that time. (Tr. 67-68, 135-136). The pay lag change also extended the time within which a new check could be reissued to replace a lost or erroneous check. (Tr. 75).

Many of the employees at EREC are in the lower grades earning less than \$20,000 per year. According to Patricia Ostack, Union vice president, the one week pay period in August 1987 caused some employees to miss their scheduled car or rent payments which resulted in late charges being assessed. Some employees were also short of money to prepare children for the new school year.

According to the testimony of Lt. Col. Jimmy A. Meier, a requirement to return to the 9 day pay lag would result in another one week pay period before the adjustment could take place. The key entry support contract would cost approximately \$8500.

Discussion, Conclusions, and Recommendations

The General Counsel contends that the Union had negotiable substance and impact and implementation proposals on the bargaining table on August 10, 1987 when Respondent EREC refused to negotiate over these proposals. Therefore, the General Counsel argues that Respondent EREC failed and refused to bargain in good faith with the Union in violation of section 7116(a)(1) and (5) of the Statute. The General Counsel also contends that Respondent FAO violated section 7116(a)(1) by implementing the pay lag and pay period changes prior to the completion of the bargaining obligation between EREC and the Union. Respondent defends on the basis that none of the Union's proposals is negotiable and neither EREC nor FAO violated the Statute by implementing the mandatory agency-wide regulation.

It is necessary, therefore, to examine the negotiability of each of the Union's proposals. See Department of Health

and Human Services, Social Security Administration, Baltimore, Maryland, 33 FLRA 454, 458 (1988).

Proposal No. 1

The General Counsel argues that the Union's 4 day pay lag proposal is a substantive proposal made in response to Respondent's 12 day pay lag changes, and the Union's 26 pay period proposal is a substantive proposal made in response to Respondent's pay period change.

Respondent contends (1) that it had no duty to bargain on the substance of the proposal since it is inconsistent with the Army Regulation and EREC and FAO were merely following the requirements of AR 37-105, Chapter 2, (2) compelling need determinations under section 7117(b)(4) of the Statute are inappropriate for unfair labor practice proceedings, and (3) the negotiability of similar proposals relating to AR 37-105, Chapter 2 is before the FLRA in National Association of Government Employees, Local R14-89 and Headquarters, U.S. Army Air Defense Artillery Center and Fort Bliss, Fort Bliss, Texas, No. O-NG-1468 (Fort Bliss) where the Department of the Army has raised compelling need issues.

I agree with Respondent that the allegation concerning Respondent's refusal to bargain over the substance of the change is not a proper issue for resolution in this forum and should be dismissed. The Authority in Federal Emergency Management Agency, 32 FLRA 502 (1988) held that all elements of a compelling need determination -- including whether a proposal is subject to or conflicts with an agency regulation -- must be resolved in a negotiability proceeding and such issues may not be resolved in unfair labor practice proceedings. It is also noted that the Authority has since found in the Fort Bliss case, 32 FLRA 392 (1988), that a proposal made in response to AR 37-105, Chapter 2, that the employer maintain a six day pay lag after the end of the pay period, is non-negotiable. The Authority concluded that the proposal conditions the Agency's right to determine its internal security practices under section 7106(a)(1) on the prior exercise of either the Agency's right to assign work under section 7106(a)(2)(B) or the Agency's rights under section 7106(b)(1) to determine the number, types and grades of employees assigned, and the methods and means of performing work. The Authority did not reach the Agency's additional arguments concerning the essential nature of the regulation.

Proposal No. 2

The General Counsel contends that the Union's proposal setting forth three options for receiving paychecks is negotiable as it is related to the changes at issue and designed to alleviate the impact of the changes. Therefore, the General Counsel argues that any prior agreement concerning paycheck delivery cannot be used to preclude such a proposal.

Respondent contends that the proposal is not a proper impact and implementation proposal as it has not been shown how the proposal would address adverse effects of the 12 day pay lag; that the proposal is outside the scope of the change which dealt with the preparation and processing of paychecks as opposed to their distribution; the second proposal conflicts with the October 1982 memorandum and the collective bargaining agreement which effectively waived union-initiated bargaining during the term of the agreement; and the proposal would require the Agency to create internal controls, assign employees, and assign work not currently being performed.

The change in the pay lag, the time between the end of the pay period and the day on which employees are actually paid for their completed work, had an effect or reasonably foreseeable effect on the working conditions of unit employees giving rise to a duty to bargain. Fort Bliss, supra, 32 FLRA at 396-397. It is reasonable to conclude that lengthening this period would trigger employee concerns over where and how quickly they could have their checks in hand. The record reflects that there were numerous complaints of late and untimely checks both before and after the change. The change also extended the time within which new checks could be issued to replace lost or erroneous checks. Therefore, the proposal concerning the delivery of checks by hand, by mail, or to a financial institution constituted "appropriate arrangements for employees adversely affected" under section 7106(b)(2) and (3) of the Statute. Cf. Social Security Administration, Office of Hearings and Appeals, Region II, New York, New York, 19 FLRA 328 (1985) and 21 FLRA 546 (1986).

With regard to Respondent's contention that the proposal conflicts with the parties' memorandum of understanding and collective bargaining agreement, I agree with Administrative Law Judge Burton S. Sternburg who addressed this same argument in Department of the Army, U.S. Army Soldier Support Center, Fort Benjamin Harrison, Office of the

Director of Finance and Accounting, Indianapolis, Indiana, et al., Case Nos. 5-CA-80084 and 80148-80152 (January 30, 1989) (Army Soldier Support Center), in part, as follows:

Having unilaterally decided to change the day upon which checks would be available to the detriment of the unit employees, I conclude that Respondent is estopped from relying on the terms of the supplemental agreement as a defense. To allow Respondent to claim that the manner of delivery of pay checks is non-negotiable since it is covered by the supplemental agreement which, accordingly to the terms of the Master Agreement, cannot be modified absent the mutual consent of both parties would destroy the equality of the bargaining relationship between the Union and the Respondent envisioned by the Statute. Thus, Respondent would have the best of all worlds being allowed to effect changes in conditions of employment and thereafter refuse to entertain legitimate Union proposals thereon upon the basis of a prior contractual commitment which was executed at a time when the changes were not contemplated. Accordingly, I find that when an agency utilizes its rights under the Statute to effectuate changes in conditions of employment it is under an obligation to bargain on any and all legitimate union proposals which bear a substantial relationship to the change irrespective of any prior existing contractual provisions and/or agreements involving similar subject matter. Cf. Social Security Administration and American Federation of Government Employees, AFL-CIO, Local 1760, 19 FLRA No. 47 and 21 FLRA No. 72.

In addition, the Authority has found that proposals dealing with the manner in which employees receive their paychecks are negotiable. Federal Employees Metal Trades Council, AFL-CIO and Department of the Navy, Mare Island Naval Shipyard, Vallejo, California, 25 FLRA 465 (1987) (FEMTC).

Respondent's assertion that the proposal directly interferes with its rights to assign employees and assign work lacks merit. The right to assign work includes the discretion to determine the particular duties and work to be assigned as well as the particular employees to whom or positions to which duties and work will be assigned. Department of Health and Human Services, Social Security Administration, Baltimore, Maryland, 33 FLRA 454, 461 (1988). The proposal does not interfere with this discretion as it does not require management to assign specific employees or specific duties to particular employees and is not directly or integrally related to the assignment of work. It would not conflict with management's right to decide how hand delivery of paychecks or other means of delivery would be accomplished and by whom. Although Respondent points out that worksite paycheck distribution at the Activity was discontinued in 1982 as a result of the memorandum of understanding, that memorandum reflects that employees with a "genuine hardship" may have an exception granted to either having their check sent to a designated mailing address or credited to a bank account. Thus, the Agency's present policy on paycheck delivery contemplates that duties related to the hand delivery of paychecks will continue to be assigned to Agency personnel. The proposals in this case do not require the Agency to assign duties that would not otherwise be assigned. FEMTC, 25 FLRA at 474; National Treasury Employees Union and Department of the Treasury, Internal Revenue Service, 25 FLRA 837, 839-840 (1987).

It is concluded that proposal no. 2 is negotiable.

Proposal No. 3

With respect to the Union's proposal to delay the implementation of the change in pay lag pending a determination by the FLRA of any non-negotiability contentions raised by Respondent to any Union proposal, Respondent claims that the proposal is subject to or conflicts with Agency regulation AR 37-105, for which a compelling need exists and which required a January 2, 1988 implementation date.

Based on the Authority's decision in Federal Emergency Management Agency, 32 FLRA 502 (1988) that all elements of a compelling need determination -- including whether a proposal is subject to or conflicts with an agency regulation -- must be made in a negotiability proceeding and not in an unfair

labor practice proceeding, this issue is not a proper issue for resolution in this forum.^{3/}

Since proposal number 2 was negotiable, Respondent EREC violated section 7116(a)(1) and (5) of the Statute on August 10, 1987, and continuing to date, by failing and refusing to bargain with the Union over the negotiable proposal. Department of Health and Human Services, Social Security Administration, Baltimore, Maryland, supra, 33 FLRA at 458. Respondent FAO violated section 7116(a)(1) of the Statute by interfering with the bargaining relationship between EREC and the Union when it implemented the changes in pay procedures on August 17, 1987 prior to the completion of the bargaining obligation between EREC and the Union. The record reveals that no exigency existed at the time implementation began.

The General Counsel requests a status quo ante remedy. Respondent contends that a status quo ante remedy is not justified. The record indicates that all EREC employees are currently receiving their respective pay checks on a day certain every two weeks. Reinstatement of the old pay procedures would require another one week pay period or similar adjustment before the change could take place which would be disruptive to unit employees. It would also disrupt the Respondent FAO operations which support numerous other activities. Therefore, balancing the nature and circumstances of the violation against the degree of disruption in the Respondent's operations and taking into consideration the factors set forth in Federal Correctional Institution, 8 FLRA 604 (1982), it is concluded that no status quo ante remedy is necessary in order to effectuate

^{3/} Respondent also claims that the proposal is not a valid impact and implementation proposal and, as a ground rule, is precluded by the ground rule provisions of the collective bargaining agreement. If it were deemed necessary to do so, I would reject these arguments for the same reasons given by Administrative Law Judge Burton S. Sternburg in Army Soldier Support Center, supra, pp. 14-15. Judge Sternburg held that the proposal was negotiable under the Authority's decision in Overseas Education Association Inc., et al., 29 FLRA 734 (1987) and does not in any way conflict with the ground rule provisions of the contract. But see Treasury, IRS v. FLRA and National Treasury Employees Union, Intervenor, No. 87-1439 (D.C. Cir., Dec. 2, 1988).

the purposes and policies of the Statute. Rather, it will be recommended that EREC and the Union bargain consonant with law and regulation concerning the impact and implementation of the changes in pay procedures and that FAO reimburse the unit employees for all monies lost and/or interest charged as a result of the change at a time when negotiations had not been completed. Army Soldier Support Center, supra, p. 15.

Based on the foregoing findings and conclusions, it is recommended that the Authority issue the following Order:

ORDER

Pursuant to section 2423.29 of the Rules and Regulations of the Federal Labor Relations Authority and section 7118 of the Statute, it is hereby ordered:

A. Department of the Army, Enlisted Records and Evaluation Center, Ft. Benjamin Harrison, Indianapolis, Indiana, shall:

1. Cease and desist from:

(a) Refusing to negotiate in good faith with the American Federation of Government Employees, Local 1411, AFL-CIO (the Union), the exclusive representative of a bargaining unit of its employees, to the extent consonant with law and regulation concerning the impact and manner of implementation of the changes in pay procedures, including negotiation on Union Proposal No. 2.

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

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

(a) Upon request, meet and negotiate in good faith with the Union to the extent consonant with law and regulation concerning the impact and manner of implementation of the changes in pay procedures, including negotiation on Union Proposal No. 2.

(b) Post at its facilities, copies of the attached Notice marked Appendix A on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such

forms, they shall be signed by an appropriate official, and 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.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region Five, Federal Labor Relations Authority, 175 W. Jackson Blvd., Suite A-1359, Chicago, IL 60604, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

B. Department of the Army, Finance and Accounting Office for the Secretary of the Army, St. Louis, Missouri shall:

1. Cease and desist from:

(a) Interfering with the bargaining relationship between the American Federation of Government Employees, Local 1411, AFL-CIO (the Union) and the U.S. Army Enlisted Records and Evaluation Center (the Activity) by effecting changes in pay procedures at a time when the Activity and the Union have not completed bargaining on the impact and manner of implementation of pending changes in pay procedures.

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

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

(a) Reimburse the unit employees for all monies lost and/or interest charged as a result of the changes in pay procedures which were implemented at a time when negotiations on the impact and manner of implementation of the changes had not been completed.

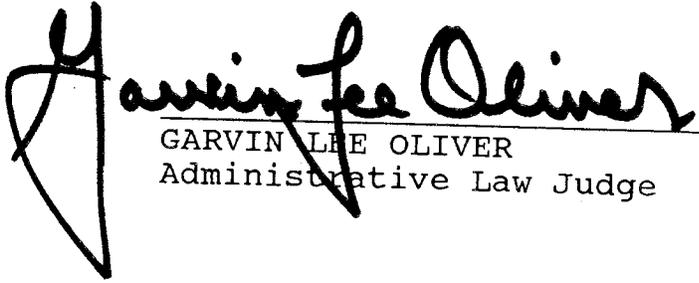
(b) Post at all Activity facilities, copies of the attached Notice marked Appendix B on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of

such forms, they shall be signed by an appropriate official, and 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.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region Five, Federal Labor Relations Authority, 175 W. Jackson Blvd., Suite A-1359, Chicago, IL 60604, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

C. The allegations in the Complaint that the Department of the Army, Enlisted Records and Evaluation Center, Ft. Benjamin Harrison, Indianapolis, Indiana engaged in unfair labor practices in violation of section 7116(a)(1) and (5) of the Statute by refusing to bargain in good faith concerning the substance of the changes in pay procedures are DISMISSED.

Issued, Washington, D.C., February 17, 1989.



GARVIN LEE OLIVER
Administrative Law Judge

APPENDIX A

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF THE
FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to negotiate in good faith with the American Federation of Government Employees, Local 1411, AFL-CIO (the Union), the exclusive representative of a bargaining unit of our employees, to the extent consonant with law and regulation concerning the impact and manner of implementation of the changes in pay procedures, including negotiation on Union Proposal No. 2.

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

WE WILL, upon request, meet and negotiate in good faith with the Union to the extent consonant with law and regulation concerning the impact and manner of implementation of the changes in pay procedures, including negotiation on Union Proposal No. 2.

(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 Five, whose address is: 175 W. Jackson Blvd., Suite A-1359, Chicago, IL 60604, and whose telephone number is: (312) 353-6306.

APPENDIX B

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF THE
FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT interfere with the bargaining relationship between the American Federation of Government Employees, Local 1411, AFL-CIO (the Union) and the U.S. Army Enlisted Records and Evaluation Center (the Activity) by effecting changes in pay procedures at a time when the Activity and the Union have not completed bargaining on the impact and manner of implementation of pending changes in pay procedures.

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

WE WILL reimburse the unit employees for all monies lost and/or interest charged as a result of the changes in pay procedures which were implemented at a time when negotiations on the impact and manner of implementation of the change had not been completed.

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 Five, whose address is: 175 W. Jackson Blvd., Suite A-1359, Chicago, IL 60604, and whose telephone number is: (312) 353-6306.