71 FLRA No. 87

UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS
(Petitioner)
0-PS-42

DECISION ON REQUEST FOR GENERAL STATEMENT OF POLICY OR GUIDANCE
December 13, 2019

Before the Authority: Colleen Duffy Kiko, Chairman, and Ernest DuBester and James T. Abbott, Members

I. Statement of the Case

Pursuant to § 2427.2 of the Authority’s Regulations,1 the Petitioner requests that the Authority issue a general statement of policy or guidance clarifying the meaning of the phrase “adversely affected” in § 7106(b)(3) of the Federal Service Labor-Management Relations Statute (the Statute).2

II. Background

Under § 7106(b)(3) of the Statute, parties must bargain over “appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.”3 According to the Petitioner, the Authority has expansively interpreted “adversely affected,” which results in “extensive and time-consuming negotiations before agencies can exercise [the] management rights”4 set forth in § 7106(a) of the Statute.5

The Petitioner explains that, under its proposed standard, a labor organization could only rebut the presumption by presenting evidence – rather than merely asserting – that any proposal is a response “to actual adverse effects directly caused by the exercise of [a] management right[].”8 The Petitioner posits that the Authority’s adoption of such a requirement would permit agencies to exercise their management rights “immediately” without bargaining.9

III. Discussion

Upon careful consideration of the Petitioner’s request, we find that it is not appropriate for resolution through the issuance of a general ruling.10 These questions would most appropriately be addressed in the context of the facts and circumstances presented by parties involved in an actual dispute.11 Accordingly, we deny the request.

IV. Order

We deny the Petitioner’s request.

1 5 C.F.R. § 2427.2.
2 Petitioner’s Request (Request) at 1.
4 Request at 2.
5 5 U.S.C. § 7106(a).
6 21 FLRA 24 (1986).
7 Request at 4.
8 Id. at 5.
9 Id.
10 5 C.F.R. § 2427.5.