

CASE DIGEST: *AFGE, Nat'l Council of EEOC Locals, No. 216*, 71 FLRA 300 (2019)
(Member DuBester Concurring in part and dissenting in part)

This case concerns the Agency's declaration that three Union proposals concerning the Agency's disciplinary table of penalties are nonnegotiable. After the Agency's declaration of nonnegotiability on August 3, 2018, the Union attempted to "withdraw" and amend the three proposals on August 27, 2018. When the Union asked for a declaration of nonnegotiability on the new proposals, the Agency declared it had already declared the proposals nonnegotiable on August 3. The Union filed a petition for review of the amended proposals on September 6, 2018. The Authority found that the Union's amended proposals were not substantive modifications and that the petition for review filed on September 6 was untimely and dismissed the petition.

Member DuBester dissented with respect to the majority's conclusion regarding Proposal 7. He found that amended Proposal 7 significantly changed the original proposal because it created a new and independent standard by which to measure the appropriateness of a disciplinary penalty and also included substantial revisions to clarify the proposal. Thus, Member DuBester would find the petition timely as to Proposal 7.

This case digest is a summary of a decision issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.