

CASE DIGEST: *AFGE, Local 1502*, 71 FLRA 468 (2019) (Member DuBester dissenting)

This case concerned a prematurely filed petition for review. The Union filed its petition without first obtaining a written allegation of non-negotiability from the Agency, instead arguing that meeting minutes from a collective-bargaining session constituted the written allegation of non-negotiability. The Authority found the broad summary of statements made during a negotiation session, here labeled as “minutes,” do not constitute a written declaration of non-negotiability. Therefore, the Authority dismissed the petition as prematurely filed.

Member DuBester dissented, finding that the minutes constituted an unsolicited written allegation of non-negotiability because they explicitly stated that the Agency declared the Union’s proposal non-negotiable and set forth the Agency’s legal basis for its position. He further noted that the Agency refused the Union’s subsequent request for a written declaration of nonnegotiability on the basis that it had already stated its position in the minutes. Accordingly, Member DuBester would find that the petition was timely filed.