

CASE DIGEST: *U.S. Dep't of the Navy Commander, Navy Region Mid-Atl., Naval Weapons Station Earle, 72 FLRA 533 (2021) (Chairman DuBester concurring)*

The Agency filed a contrary-to-law exception to the Arbitrator's award granting a year of backpay for two grievants' temporary assignment to higher-graded positions. Because a backpay remedy for a temporary, noncompetitive promotion that exceeds 120 days is inconsistent with 5 C.F.R. § 335.103(c), the award is contrary to law. Accordingly, the Authority granted the Agency's exception and modified the award.

Chairman DuBester concurred. He noted his continued disagreement with the standard applied by the majority to determine whether a grievance regarding an employee's entitlement to a temporary promotion concerns classification within the meaning of 5 U.S.C. § 7121(c)(5), but agreed that the grievance in this case did not concern classification.

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.