CASE DIGEST: NTEU & U.S. Dep’t of Homeland Security, Customs and Border
Protection, 72 FLRA 752 (2022) (Chairman DuBester concurring
in part, dissenting in part)

This case involved two proposals arising from the Agency’s decision to reassign
forty-seven bargaining unit employees to different duty stations. The Authority found
that the proposals were not appropriate arrangements because they excessively interfered
with management’s right to determine its organization and right to retain employees.
Accordingly, the Authority dismissed the petition for review.

Chairman DuBester concurred in part and dissented in part. He agreed that the
first proposal excessively interfered with management’s right to determine the Agency’s
organization, but disagreed with the majority’s finding that the Union conceded an effect
on management’s rights, as well as the majority’s application of a “negates” test to assess
whether the proposal was an appropriate arrangement. Additionally, in his view, the
second proposal was an appropriate arrangement.

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.