Supplemental Digest and Index of Published Decisions of the Assistant Secretary of Labor for Labor-Management Relations Pursuant to Executive Order 11491, As Amended, July 1, 1974 through June 30, 1975

U.S. Department of Labor
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Labor-Management Services Administration
Paul J. Fasser, Jr.
Assistant Secretary of Labor for Labor-Management Relations
Office of Federal Labor-Management Relations
Louis S. Wallerstein, Director

This edition covers the period of July 1, 1974-June 30, 1975. It supplements the Digest and Index covering the period of January 1, 1970-June 30, 1974.

This edition contains a Table of Contents and Tables of Decisions and Reports on Rulings, each covering the period of July 1, 1974 — June 30, 1975.

1975
TABLE OF CONTENTS

PREFACE .......................................................................................... xi

TABLE OF ABBREVIATIONS .......................................................... xiii

DIGEST

05 00 00 GENERAL PROVISIONS .................................................. 1

05 04 00 Definitions .......................................................................... 1
05 08 00 Coverage of Executive Order ........................................... 1
05 12 00 Evidence ............................................................................ 2
05 12 04 Request for LMSA Documents and LMSA Personnel at Hearings .... 2
05 12 08 Admissibility at Hearings .............................................. 2

05 16 00 Advisory Opinions .......................................................... 2
05 20 00 Concurrent Related Cases ............................................... 2
05 24 00 Role of NLRB Decisions ................................................. 2
05 28 00 Service ............................................................................. 2
05 32 00 Transitional Problems .................................................... 3
05 36 00 Official Time ..................................................................... 3

10 00 00 REPRESENTATION CASES: PRELIMINARY STAGES .............. 5

10 04 00 Types of Petitions: Procedure ............................................ 5

10 04 04 Representation, Filed by Labor Organization (RO) .................. 5
10 04 08 Agency Doubt as to Representative Status (RA) ..................... 5
10 04 12 Decertification of Representative, Filed by Employee(s) (DR) .... 5
10 04 16 Clarification of Unit (CU) .................................................. 6
10 04 20 Amendment of Recognition or Certification (AC) ................. 6
10 04 24 National Consultation Rights ............................................ 7

10 08 00 Posting of Notice of Petition .............................................. 7
10 12 00 Intervention ...................................................................... 7
10 16 00 Showing of Interest .......................................................... 7
10 20 00 Labor Organization Status ............................................... 7
10 24 00 Timeliness of Petition ....................................................... 7

10 24 04 Election Bar .................................................................... 7
10 24 08 Certification Bar .............................................................. 7
10 24 12 Agreement Bar ............................................................... 7
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 28 00</td>
<td>Status of Petitioner</td>
<td>8</td>
</tr>
<tr>
<td>10 32 00</td>
<td>Qualifications to Represent Specified Categories of Employees</td>
<td>10</td>
</tr>
<tr>
<td>10 36 00</td>
<td>Request for Review Rights</td>
<td>10</td>
</tr>
<tr>
<td>10 40 00</td>
<td>Area Administrator's Action</td>
<td>10</td>
</tr>
<tr>
<td>10 44 00</td>
<td>Defunctness</td>
<td>10</td>
</tr>
<tr>
<td>15 00 00</td>
<td>REPRESENTATION HEARING PROCEDURE</td>
<td>11</td>
</tr>
<tr>
<td>15 04 00</td>
<td>Role of Hearing Officer</td>
<td>11</td>
</tr>
<tr>
<td>15 08 00</td>
<td>Motions</td>
<td>11</td>
</tr>
<tr>
<td>15 08 04</td>
<td>General</td>
<td>11</td>
</tr>
<tr>
<td>15 08 08</td>
<td>Amendment of Petition</td>
<td>11</td>
</tr>
<tr>
<td>15 12 00</td>
<td>Evidence and Burden of Proof</td>
<td>11</td>
</tr>
<tr>
<td>15 16 00</td>
<td>Unfair Labor Practice Allegations</td>
<td>11</td>
</tr>
<tr>
<td>15 20 00</td>
<td>Obligation of Parties</td>
<td>11</td>
</tr>
<tr>
<td>15 24 00</td>
<td>Post-Hearing Submissions</td>
<td>11</td>
</tr>
<tr>
<td>15 28 00</td>
<td>Remand</td>
<td>12</td>
</tr>
<tr>
<td>20 00 00</td>
<td>REPRESENTATION UNIT DETERMINATIONS</td>
<td>13</td>
</tr>
<tr>
<td>20 04 00</td>
<td>Criteria</td>
<td>13</td>
</tr>
<tr>
<td>20 04 04</td>
<td>Community of Interest</td>
<td>13</td>
</tr>
<tr>
<td>20 04 08</td>
<td>Effective Dealings</td>
<td>14</td>
</tr>
<tr>
<td>20 04 12</td>
<td>Efficiency of Operations</td>
<td>14</td>
</tr>
<tr>
<td>20 04 16</td>
<td>Agency Regulations and Parties' Stipulations Not Binding on Assistant Secretary</td>
<td>15</td>
</tr>
<tr>
<td>20 04 20</td>
<td>Previous Certification</td>
<td>15</td>
</tr>
<tr>
<td>20 08 00</td>
<td>Geographic Scope</td>
<td>15</td>
</tr>
<tr>
<td>20 08 04</td>
<td>World-wide</td>
<td>15</td>
</tr>
<tr>
<td>20 08 08</td>
<td>Nation-wide</td>
<td>15</td>
</tr>
<tr>
<td>20 08 12</td>
<td>State-wide</td>
<td>16</td>
</tr>
<tr>
<td>20 08 16</td>
<td>City-wide</td>
<td>16</td>
</tr>
<tr>
<td>20 12 00</td>
<td>Organizational Scope</td>
<td>16</td>
</tr>
<tr>
<td>20 12 04</td>
<td>Agency-wide</td>
<td>16</td>
</tr>
<tr>
<td>20 12 08</td>
<td>Activity-wide</td>
<td>16</td>
</tr>
<tr>
<td>20 12 12</td>
<td>Directorate-wide</td>
<td>17</td>
</tr>
<tr>
<td>20 12 16</td>
<td>Command-wide</td>
<td>17</td>
</tr>
<tr>
<td>20 12 20</td>
<td>Headquarters-wide</td>
<td>17</td>
</tr>
</tbody>
</table>
20 00 00  REPRESENTATION UNIT DETERMINATIONS (Cont'd)

20 12 00  Organizational Scope (Cont'd)

20 16 00  Special Situations

20 20 00  Employee Categories and Classifications

20 24 00  Post-Decisional Intervention, Showing of Interest and Withdrawal

25 00 00  REPRESENTATION ELECTION AND POST ELECTION STAGES

25 04 00  Voting Procedure

25 08 00  Objections

Page

20 12 24  Field-wide ........................................ 17
20 12 28  Region-wide ..................................... 18
20 12 32  Division-wide .................................. 18
20 12 36  Area-wide ....................................... 18
20 12 40  District-wide .................................... 18
20 12 44  Branch-wide .................................... 18
20 12 48  Base-wide ....................................... 19
20 12 52  Section-wide .................................... 19
20 12 56  Multi-Installation ............................ 19
20 12 60  Single Installation ......................... 19
20 12 64  Occupational Classification ............. 20

20 16 04  Severance ..................................... 21
20 16 08  Accretion ....................................... 22
20 16 12  Eligibility .................................... 22
20 16 16  Residual Employees ............................ 22
20 16 20  Self-Determination ............................ 22
20 16 24  Supervisory Unit ................................ 22
20 16 28  Reorganization .................................. 23

20 24 04  Posting of Notice of Unit Determination ........ 36
20 24 08  Showing of Interest ............................ 36
20 24 12  Opportunity to Withdraw ........................ 36

25 04 04  Professionals .................................... 37
25 04 08  Self-Determination ............................ 37
25 04 12  Role of Observers .............................. 37
25 04 16  Severance ........................................ 37

25 08 04  Under EO 10988 .................................. 37
25 08 08  Procedure ........................................ 37
25 08 12  Timing of Objectionable Conduct ............ 37
25 08 16  Agency Rules on Campaigning ............... 37
25 08 20  Campaign Communications ...................... 37
25 08 24  Promises of Benefit ............................ 37
25 08 28  Conduct of Election ............................ 38
25 08 32  Agency Neutrality ................................ 38
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 00 00</td>
<td>REPRESENTATION ELECTION AND POST ELECTION STAGES</td>
<td>Page</td>
</tr>
<tr>
<td>25 12 00</td>
<td>Challenges</td>
<td>38</td>
</tr>
<tr>
<td>25 12 04</td>
<td>Eligibility of Employees</td>
<td>38</td>
</tr>
<tr>
<td>25 12 08</td>
<td>Questions Concerning Ballot</td>
<td>38</td>
</tr>
<tr>
<td>25 12 12</td>
<td>Timing of Challenge</td>
<td>38</td>
</tr>
<tr>
<td>25 16 00</td>
<td>Certification</td>
<td>38</td>
</tr>
<tr>
<td>25 20 00</td>
<td>Clarification of Unit</td>
<td>38</td>
</tr>
<tr>
<td>25 24 00</td>
<td>Amendment of Recognition or Certification</td>
<td>40</td>
</tr>
<tr>
<td>30 00 00</td>
<td>UNFAIR LABOR PRACTICES: PROCEDURE</td>
<td>43</td>
</tr>
<tr>
<td>30 04 00</td>
<td>Requisites for Charges and Complaints</td>
<td>43</td>
</tr>
<tr>
<td>30 08 00</td>
<td>Complaint Proceedings: Investigation Stage</td>
<td>44</td>
</tr>
<tr>
<td>30 12 00</td>
<td>Hearing</td>
<td>44</td>
</tr>
<tr>
<td>30 12 04</td>
<td>Rulings of ALJs</td>
<td>44</td>
</tr>
<tr>
<td>30 12 08</td>
<td>Untimely Amendments to Complaints</td>
<td>44</td>
</tr>
<tr>
<td>30 12 12</td>
<td>Failure to Appear</td>
<td>44</td>
</tr>
<tr>
<td>30 12 16</td>
<td>Prejudicial Evidence</td>
<td>44</td>
</tr>
<tr>
<td>30 12 20</td>
<td>Technical Deficiencies</td>
<td>44</td>
</tr>
<tr>
<td>30 12 24</td>
<td>Evidence and Burden of Proof</td>
<td>44</td>
</tr>
<tr>
<td>30 12 28</td>
<td>Lack of Cooperation</td>
<td>45</td>
</tr>
<tr>
<td>30 16 00</td>
<td>Post-Hearing</td>
<td>46</td>
</tr>
<tr>
<td>30 20 00</td>
<td>Stipulated Record</td>
<td>46</td>
</tr>
<tr>
<td>30 24 00</td>
<td>Employee Status: Effect on Unfair Labor Practices</td>
<td>46</td>
</tr>
<tr>
<td>30 28 00</td>
<td>Effect of Other Proceedings or Forums</td>
<td>47</td>
</tr>
<tr>
<td>30 32 00</td>
<td>Major Policy Issue Raised</td>
<td>48</td>
</tr>
<tr>
<td>35 00 00</td>
<td>UNFAIR LABOR PRACTICES: AGENCY</td>
<td>49</td>
</tr>
<tr>
<td>35 04 00</td>
<td>General</td>
<td>49</td>
</tr>
<tr>
<td>35 04 04</td>
<td>Guidance or Directives of Civil Service Commission or Agency</td>
<td>49</td>
</tr>
<tr>
<td>35 04 08</td>
<td>Waiver of Rights Granted by Executive Order</td>
<td>49</td>
</tr>
<tr>
<td>35 04 12</td>
<td>Management Rights</td>
<td>49</td>
</tr>
<tr>
<td>35 08 00</td>
<td>Section 19(a)(1)</td>
<td>49</td>
</tr>
<tr>
<td>35 08 04</td>
<td>Interference</td>
<td>49</td>
</tr>
<tr>
<td>35 08 08</td>
<td>Distribution of Literature</td>
<td>64</td>
</tr>
<tr>
<td>35 08 12</td>
<td>Solicitation</td>
<td>64</td>
</tr>
<tr>
<td>35 12 00</td>
<td>Section 19(a)(2)</td>
<td>64</td>
</tr>
<tr>
<td>35 16 00</td>
<td>Section 19(a)(3)</td>
<td>69</td>
</tr>
<tr>
<td>Code</td>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>35 20 00</td>
<td>Section 19(a)(4)</td>
<td>69</td>
</tr>
<tr>
<td>35 24 00</td>
<td>Section 19(a)(5)</td>
<td>70</td>
</tr>
<tr>
<td>35 28 00</td>
<td>Section 19(a)(6)</td>
<td>71</td>
</tr>
<tr>
<td>35 28 04</td>
<td>Response to Bargaining Request</td>
<td>71</td>
</tr>
<tr>
<td>35 28 08</td>
<td>Failure to Meet and Confer Generally</td>
<td>71</td>
</tr>
<tr>
<td>35 28 12</td>
<td>Failure to Meet and Confer on Impact or Procedures</td>
<td>75</td>
</tr>
<tr>
<td>35 28 16</td>
<td>Refusal to Allow Formal Discussion Representation</td>
<td>78</td>
</tr>
<tr>
<td>35 28 20</td>
<td>Uncompromising Attitude</td>
<td>81</td>
</tr>
<tr>
<td>35 28 24</td>
<td>Dilatory and Evasive Tactics</td>
<td>82</td>
</tr>
<tr>
<td>35 28 28</td>
<td>Unilateral Changes in Terms and Conditions of Employment</td>
<td>83</td>
</tr>
<tr>
<td>35 28 32</td>
<td>Bypassing Exclusive Representa</td>
<td>86</td>
</tr>
<tr>
<td></td>
<td>tive</td>
<td></td>
</tr>
<tr>
<td>35 28 36</td>
<td>Refusal to Furnish Information</td>
<td>89</td>
</tr>
<tr>
<td>35 32 00</td>
<td>Section 19(c)</td>
<td>90</td>
</tr>
<tr>
<td>40 00 00</td>
<td>UNFAIR LABOR PRACTICES: LABOR ORGANIZATION</td>
<td>93</td>
</tr>
<tr>
<td>40 04 00</td>
<td>General</td>
<td>93</td>
</tr>
<tr>
<td>40 08 00</td>
<td>Section 19(b)(1)</td>
<td>93</td>
</tr>
<tr>
<td>40 12 00</td>
<td>Section 19(b)(2)</td>
<td>94</td>
</tr>
<tr>
<td>40 16 00</td>
<td>Section 19(b)(3)</td>
<td>94</td>
</tr>
<tr>
<td>40 20 00</td>
<td>Section 19(b)(4)</td>
<td>94</td>
</tr>
<tr>
<td>40 24 00</td>
<td>Section 19(b)(5)</td>
<td>94</td>
</tr>
<tr>
<td>40 28 00</td>
<td>Section 19(b)(6)</td>
<td>94</td>
</tr>
<tr>
<td>40 32 00</td>
<td>Section 19(c)</td>
<td>94</td>
</tr>
<tr>
<td>45 00 00</td>
<td>REMEDIAL ORDERS AGAINST AGENCIES: UNFAIR LABOR PRACTICES</td>
<td>97</td>
</tr>
<tr>
<td>45 04 00</td>
<td>Notification and Dissemination of Remedies</td>
<td>97</td>
</tr>
<tr>
<td>45 08 00</td>
<td>Advice of Compliance</td>
<td>97</td>
</tr>
<tr>
<td>45 10 00</td>
<td>Modifications to Orders</td>
<td>97</td>
</tr>
<tr>
<td>45 12 00</td>
<td>Remedies for Improper Rules, Regulations and Orders</td>
<td>97</td>
</tr>
<tr>
<td>45 16 00</td>
<td>Remedies for Improper Conduct</td>
<td>97</td>
</tr>
<tr>
<td>45 16 04</td>
<td>Interference, Solicitation or Distribution of Literature</td>
<td>97</td>
</tr>
<tr>
<td>45 16 08</td>
<td>Discrimination</td>
<td>98</td>
</tr>
<tr>
<td>45 16 12</td>
<td>Assisting a Labor Organization</td>
<td>99</td>
</tr>
<tr>
<td>45 16 16</td>
<td>Refusal to Accord Appropriate Recognition</td>
<td>99</td>
</tr>
</tbody>
</table>
45 16 00 Remedies for Improper Conduct (Cont'd)

45 16 20 Failure to Consult, Confer or Negotiate ........................................ 99
45 16 24 Failure to Cooperate ................................................................. 101

45 20 00 Jurisdictional Questions ...................................................... 101

50 00 00 REMEDIAL ORDERS AGAINST LABOR ORGANIZATIONS;
UNFAIR LABOR PRACTICES ......................................................................... 103

50 04 00 Notification and Dissemination of Remedies .......................... 103
50 08 00 Advice of Compliance ............................................................... 103
50 12 00 Remedies for Improper Rules, Regulations and Orders .................................. 103
50 16 00 Remedies for Improper Conduct .............................................. 103

50 16 04 Interference ................................................................................. 103
50 16 08 Harassment of Employee in Performance of Duties .................. 103
50 16 12 Inducing Management to Coerce an Employee ............................ 103
50 16 16 Strike Activity ............................................................................. 103
50 16 20 Discrimination ............................................................................. 103
50 16 24 Failure to Consult, Confer or Negotiate .................................... 104
50 16 28 Denial of Membership .................................................................. 104

55 00 00 STANDARDS OF CONDUCT ............................................................ 105

55 04 00 Effect on Representation and Unfair Labor Practice Cases .......... 105
55 08 00 Procedure .................................................................................. 105

55 08 04 Jurisdiction .................................................................................. 105
55 08 08 Bill of Rights ................................................................................ 105
55 08 12 Elections ..................................................................................... 105

55 12 00 Bill of Rights ................................................................................ 105

55 12 04 Equal Rights ................................................................................ 105
55 12 08 Freedom of Speech .................................................................... 105
55 12 12 Dues, Initiation Fees and Assessments .......................................... 105
55 12 16 Protection of the Right to Sue ..................................................... 105
55 12 20 Safeguards against Improper Disciplinary Action ....................... 105
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>60 00 00</td>
<td>106</td>
</tr>
<tr>
<td>General</td>
<td>106</td>
</tr>
<tr>
<td>13(a)</td>
<td>106</td>
</tr>
<tr>
<td>13(b)</td>
<td>106</td>
</tr>
<tr>
<td>13(d)</td>
<td>106</td>
</tr>
<tr>
<td>13(e)</td>
<td>106</td>
</tr>
</tbody>
</table>

### TABLE OF DECISIONS - NUMERICAL LISTING, DATES OF ISSUANCE AND SECTIONS OF DIGEST INVOLVED

- Page 107

### TABLE OF DECISIONS - ALPHABETICAL LISTING

- Page 123

### TABLE OF REPORTS ON RULINGS, DATES OF ISSUANCE AND SECTIONS OF DIGEST INVOLVED

- Page 139

### INDEX

- Page 141
This edition of the Supplemental Digest and Index (SDI) contains digests of all published decisions of the Assistant Secretary of Labor for Labor-Management Relations (A/S) pursuant to Executive Order 11491, from July 1, 1974 to June 30, 1975. Published decisions from January 1, 1970 to June 30, 1974, are contained in the previously published Digest and Index (DI).

The Digest section summarizes significant decisional material and is arranged in a functional classification under major headings and subheadings, listed in the Table of Contents. It covers: (1) decisions after formal hearing or stipulated record; (2) Reports on Rulings of the A/S on requests for review of field-level actions; and (3) those rulings of the Federal Labor Relations Council which remanded cases to the A/S or modified his decisions.

Executive Order 11491 was amended, effective May 7, 1975, and the Regulations of the A/S were revised, effective May 7, 1975. Accordingly, careful attention should be given to the possible impact of the changes in the Order or the Regulations on decisional material in cases filed prior to such changes.

The full text of A/S decisions has been published in bound volumes entitled "Decisions and Reports on Rulings of the Assistant Secretary of Labor for Labor-Management Relations Pursuant to Executive Order 11491, as Amended." Past decisions may also be read at any Area Office of the Labor-Management Services Administration of the U.S. Department of Labor.

The SDI is intended as a guide to material in the A/S's published decisions but should not be used as a substitute for the full text of such decisions, nor should its contents be construed as official pronouncements or interpretations of the A/S.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AA</td>
<td>Area Administrator, Labor-Management Services Administration, U.S. Department of Labor; now referred to as Area Director, Labor-Management Services Administration</td>
</tr>
<tr>
<td>AC Petition</td>
<td>Amendment of Recognition or Certification Petition</td>
</tr>
<tr>
<td>AD</td>
<td>Area Director, Labor-Management Services Administration (formerly Area Administrator, Labor-Management Services Administration)</td>
</tr>
<tr>
<td>ALJ</td>
<td>Administrative Law Judge (formerly Hearing Examiner)</td>
</tr>
<tr>
<td>AO</td>
<td>Area Office, Labor-Management Services Administration</td>
</tr>
<tr>
<td>ARD</td>
<td>Assistant Regional Director for Labor-Management Services (formerly Regional Administrator, Labor-Management Services Administration)</td>
</tr>
<tr>
<td>A/S</td>
<td>Assistant Secretary of Labor for Labor-Management Relations</td>
</tr>
<tr>
<td>A/SLMR No.</td>
<td>Assistant Secretary for Labor-Management Relations Decision Number</td>
</tr>
<tr>
<td>CU Petition</td>
<td>Clarification of Unit Petition</td>
</tr>
<tr>
<td>DI</td>
<td>Digest and Index of Published Decisions of the Assistant Secretary of Labor for Labor-Management Relations</td>
</tr>
<tr>
<td>EO</td>
<td>Executive Order 10988 where indicated; otherwise references are to Executive Order 11491 in cases filed prior to 11-24-71, and to Executive Order 11491, as amended, subsequent thereto</td>
</tr>
<tr>
<td>FLRC</td>
<td>Federal Labor Relations Council</td>
</tr>
<tr>
<td>FLRC No.</td>
<td>Federal Labor Relations Council Decision Number</td>
</tr>
<tr>
<td>GS</td>
<td>General Schedule</td>
</tr>
<tr>
<td>HE</td>
<td>Hearing Examiner (Title changed to Administrative Law Judge)</td>
</tr>
</tbody>
</table>
Labor-Management Services Administration
Office of Labor-Management and Welfare-Pension Reports
No entry for period covered
Office of Federal Labor-Management Relations, Labor-Management Services Administration
Regional Administrator, Labor-Management Services Administration; now referred to as Assistant Regional Director for Labor-Management Services
Agency Doubt as to Representative's Status Petition
Report on Ruling of the Assistant Secretary Number
Regulations of the Assistant Secretary of Labor for Labor-Management Relations
Supplemental Digest and Index of Published Decisions of the Assistant Secretary of Labor for Labor-Management Relations
Section
Unfair Labor Practice
Wage Board

xiv
Agency. A/S found that Activity use of term "Agency" is inconsistent with definition contained in Sec. 2(a) of the Order. In the view of A/S, the Department herein is clearly an "Agency" within the meaning of the Order, and the ARS is a component Activity of that Agency. (Dept. of Agric. and Agric. Research Service, A/SLMR No. 519)

Supervisor. A/S rejected ALJ's rationale that supervisory status for a professional employee must flow from something more than the relationship between the professional and the professional's secretary or other standard or normal support person. Noting the decision of the FLRC in United States Department of Agriculture, Northern Marketing and Nutrition Research Division, Peoria, Illinois, FLRC No. 72A-4, which held that supervisory status was intended to be determined on the basis of the authority of the individual, not on the basis of the precise number of subordinates, A/S found that there was no indication in the Council's decision that a different test would be applicable to professional employees in the Federal sector. (Nat'l. Science Foundation, A/SLMR No. 487)

Coverage of Executive Order

A/S adopts ALJ's finding that Sec. 7(d)(1) does not confer any rights enforceable under Sec. 19; that where employees subject to agency grievance procedure, in absence of anti-union motivation, agency's improper failure to apply provisions of its procedure cannot be considered violative of Order; and that where no labor organization has been accorded exclusive recognition, Sec. 10(e) is inapplicable. (Naval Air Sta., (North Island), San Diego, Cal., A/SLMR No. 452)

A/S rejected Respondent's contention that it was not a proper Respondent since it was not "Agency Management" within the meaning of Sec. 2(f) of the Order. A/S held that Respondent and its grievance examiner, when engaged in processing grievances, met the definitions of "Agency Management" and "representatives of management" respectively since both Respondent and the Activity are under the jurisdiction and authority of the Department of the Army and, Respondent is a necessary.
and integral part of the labor relations program of the Department of the Army and has, by regulation, certain authority to act for the Department of the Army and to assist the Commanding Officer of the Activity in the implementation of such program. (Army Civilian Appellate Review Agency, Sacramento, Cal., A/SLMR No. 488)

A/S found, in agreement with ALJ, that Respondent, as a Govt. corporation, meets the definition of "Agency" as set forth in Sec. 2(a) of the Order, and does not qualify for exemption from the provisions of the Order based on paragraphs (b), (c) and (d) of Sec. 3. (TVA, A/SLMR No. 509)

Evidence

Request for LMSA Documents and LMSA Personnel at Hearings

No Entries

Admissibility at Hearings

Where Respondent refused to comply with ALJ's Request for Production of Documents, and evidence revealed Respondent had no justification for failing to comply with such requests, the A/S agreed with the ALJ's decision to exclude from evidence all documents sought in the requests which Respondent sought to introduce in its own case but found further, that all written and oral evidence related to the documents covered by the requests should have been excluded and not considered in the determination of the case. Accordingly, the A/S remanded the 19(a)(1) and (2) complaint to the ALJ for further consideration consistent with his decision (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 425)

Advisory Opinions

No Entries

Concurrent Related Cases

No Entries

Role of NLRB Decisions

No Entries

Service

No Entries
05 32 00  **Transitional Problems**
No Entries

05 36 00  **Official Time**
No Entries
10 04 00 REPRESENTATION CASES: PRELIMINARY STAGES

10 04 00 Types of Positions: Procedure (For substantive matters on petitions see: 20 00 00, "Representation Unit Determination"; 25 20 00, "Certification of Unit"; and 25 24 00, "Amendment of Recognition or Certification")

10 04 04 Representation, Filed by Labor Organization (RO)

No Entries

10 04 08 Agency Doubt as to Representative's Status (RA)

RA petition seeking determination with respect to effect of reorganization on 14 of 17 recognized units dismissed as in circumstances Center-wide election not warranted. (FAA, Nat'1. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

RA petitions dismissed where recognized units were no longer in existence as a result of a reorganization, thus freeing the Activity from the obligation of recognizing the exclusive representative involved. (FAA, Nat'1. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

10 04 12 Decertification of Representative, Filed by Employee(s) (DR)

Noting prior decisions where petitions filed by a management official and a guard for a non-guard unit were dismissed, A/S determined that the HO erred in not permitting the introduction of evidence pertaining to the alleged supervisory status of the Petitioner raised in the Intervenor's pre-hearing motion to dismiss the petition, and remanded the case for further hearing with respect to Petitioner's supervisory status at the time he filed his DR petition. (Geological Survey, Rolla, Mo., A/SLMR No. 413)

A/S ordered a decertification election, finding that the individual who filed the petition was not a supervisor within the meaning of Sec. 2 (c) of the Order, and thus eligible to file such
petition. Further, A/S noted his earlier finding in A/SLMR No. 413 that the petition was timely filed. (Geological Survey, Rolla, Mo., A/SLMR No. 460)

DR election rendered unnecessary in view of A/S finding of defunctness. (Naval Air Sta., New Orleans, Belle Chasse, La., A/SLMR No. 520)

10 04 16 Clarification of Unit (CU)

Stipulation to delete from CU petition two job classifications treated as withdrawal of petition insofar as it applies to these two job classifications. Accord, A/SLMR Nos. 370 and 121. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

In view of positions of parties, A/S agreed to treat RA petitions as having been amended to constitute petitions for clarification of units. (Military Sealift Com., Pacific Naval Supply Cntr., Oakland, Cal., A/SLMR No. 494)

10 04 20 Amendment of Recognition or Certification (AC)

The A/S found that any change brought about as a result of the processing of a petition for amendment of certification or recognition should not affect the continuity of the unit employees' representation and clearly should not leave open questions concerning such representation. In order to assure that any such change in affiliation accurately reflects the desires of the membership and that no question concerning representation exists, it is necessary that the procedures invoked to effectuate the change in affiliation meet certain standards. In order to assure that such an amendment conforms to the wishes of the membership, the A/S established the following steps which, as a minimum, should be taken: (1) A proposed change in the affiliation should be the subject of a special meeting of the members of the incumbent labor organization, called for this purpose only, with adequate advance notice provided to the entire membership; (2) the meeting should take place at a time and place convenient to all members; (3) adequate time for discussion of the proposed change should be provided, with all members given an opportunity to raise question within the bounds of normal preliamentary procedure; and (4) a vote by the
10 04 20 Amendment of Recognition or Certification (AC)
(Cont'd)

members of the incumbent labor organization on
the question should be taken by secret ballot,
with the ballot clearly stating the change
proposed and the choices inherent therein.
(V.A. Hosp., Montrose, N.Y., A/SLMR No. 470)

AC petitions dismissed as moot where recog­
nized units were no longer in existence as
a result of a reorganization. (FAA, Nat'l.
Aviation Facilities Experimental Cntr.,
Atlantic City, N.J., A/SLMR No. 482)

10 04 24 National Consultation Rights
No Entries

10 08 00 Posting of Notice of Petition
(See 20 24 00 for Post-Decisional Items)
No Entries

10 12 00 Intervention
(See 20 24 00 for Post-Decisional Items)

Intervention must also fall where DR petition is
dismissed and no cross petition was filed for the
unit in question. (Naval Air Sta., New Orleans,
Belle Chasse, La., A/SLMR No. 520)

10 16 00 Showing of Interest
(See 20 24 00 for Post-Decisional Items)
No Entries

10 20 00 Labor Organization Status
No Entries

10 24 00 Timeliness of Petition
10 24 04 Election Bar
No Entries

10 24 08 Certification Bar
No Entries

10 24 12 Agreement Bar
(See also 10 44 00, "Defunctness")
Rejecting the Intervenor's contention that the undated draft basic agreement signed by the Intervenor and the Activity at the local level barred the filing of a DR petition, and noting the rationale in Treasury Department, United States Mint, Philadelphia, Pennsylvania, A/SLMR No. 45, the A/S found (1) that the controlling date in computing the "open" period for the filing of the petition was the terminal date of the one-year negotiated agreement between the parties, and (2) that the DR petition was timely. (Geological Survey, Rolla, Mo., A/SLMR No. 413)

Agreement covering all GS employees bars election for unit of civilian firefighters where: (1) evidence indicates that at least a small number of civilian firefighters were employed by the Activity a number of months or years prior to the execution of the current agreement and the filing of the petition; (2) civilian firefighters are serviced by the same civilian personnel office as are other unit employees; and (3) no evidence presented that the parties to the agreement sought or intended, at any time during their bargaining history, to exclude the civilian firefighter classification from the base-wide unit. (Air Force, Davis-Monthan AFB, Ariz., A/SLMR No. 462, FLRC No. 74A-92; Air Force, 366th Combat Support Group, Mountain Home AFB, Idaho, A/SLMR No. 530; Air Force, 321st Combat Support Group, Grand Forks AFB, N.D., A/SLMR No. 531)

Where RA petition raised issue of whether exclusively recognized units remained appropriate due to substantial change in their character and composition because of reorganization, A/S found that the current negotiated agreements did not constitute bars to filing of RA petition. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482; HQ., Army Training and Doctrine Com., (TRADOC), Ft. Monroe, Va., A/SLMR No. 507)

The controlling date in computing the "open" period for filing of a petition is the terminal date provided for in the agreement, measured from its effective date, rather than the date of execution at the local level. (VA Hosp., Montrose, N.Y., A/SLMR No. 484)
An agreement, signed at the local level but returned unapproved, which would, under normal circumstances, constitute a bar to a petition filed thereafter, does not bar election in the instant case based on Section 202.3(c)(3) of the Regulations (unusual circumstances). Thus, the agreement was returned to the local level within a reasonable time and no efforts were made to conform the agreement as required, or, if appropriate, to utilize the procedures under Section 11(c) of the Order during the two-year period between the return of the agreement to the local level and the filing of the subject petition. (Public Health Service Hosp., Brighton, Mass., A/SLMR No. 502)

Representation petition was untimely as barred by binding negotiated agreement resulting from agreement articles initialed by the Activity's and the Intervenor's negotiators and a memorandum of understanding, signed by these parties two days before the petition was filed, which resolved the remaining two agreement articles; the Activity and the Intervenor effectuated certain agreement provisions before the petition was filed; the negotiators were authorized to enter into a binding agreement; and the agreement does not require ratification by the Intervenor's members. (Naval Station, Pearl Harbor, Hawaii, A/SLMR No. 504)

To extent that RA petition raises issue whether exclusive representative continues to enjoy majority status in the existing unit, A/S found current negotiated agreement to constitute bar to filing of RA petition. (Hq., Army Training and Doctrine Com., (TRADOC), Ft. Monroe, Va., A/SLMR No. 507)

Activity has no remaining obligation to honor current negotiated agreement where exclusive representative found to be defunct. (Naval Air Sta., New Orleans, Belle Chasse, La., A/SLMR No. 520)

Noting prior decisions where petitions filed by a management
official and a guard for a non-guard unit were dismissed, A/S determined that the HO erred in not permitting the introduction of evidence pertaining to the alleged supervisory status of the Petitioner raised in Intervenor's pre-hearing motion to dismiss and remanded the case for further hearing with respect to Petitioner's supervisory status at the time he filed his DR petition. (Geological Survey, Rolla, Mo., A/SLMR No. 413)

A/S ordered a decertification election, finding that the individual who filed the petition was not a supervisor within the meaning of Sec. 2(c) of the Order, and thus eligible to file such petition. Further, A/S noted his earlier finding in A/SLMR No. 413 that the petition was timely filed. (Geological Survey, Rolla, Mo., A/SLMR No. 460)

Decertification petition found not defective when A/S concluded that evidence did not establish that GS-8 Computer Operators, including Petitioner, were supervisors, or that GS-12 Computer Specialist, who assisted in collective signatures, was management official. (Western Mgt. Sys. Off., Mil. Traffic Mgmt. Com., Oakland Army Base, Oakland, Cal., A/SLMR No. 503)

Qualifications to Represent Specified Categories of Employees
No Entries

Request for Review Rights
No Entries

Area Administrator's Action (Area Director)
No Entries

Defunctness
(See also: 10 24 12, "Agreement Bar")
Local found to be defunct where it had no dues paying members; it had no officers; its funds were disbursed among the resigning membership; and, neither the local nor its National Office sought to intervene or took any affirmative action to represent the unit employees. (Naval Air Sta., New Orleans, Belle Chasse, La., A/SLMR No. 520)
15 00 00 REPRESENTATION HEARING PROCEDURE

15 04 00 Role of Hearing Officer
No Entries

15 08 00 Motions

15 08 04 General
No Entries

15 08 08 Amendment of Petition
No Entries

15 12 00 Evidence and Burden of Proof

Case remanded for further hearing where HO did not permit introduction of evidence pertaining to the alleged supervisory status of the petitioner at the time the DR petition was filed, as raised in the Intervenor's pre-hearing motion to dismiss the petition. (Geological Survey, Rolla, Mo., A/SLMR No. 413)

Evidence did not establish that employees in units no longer in existence as result of major reorganization had become so integrated with other employees of Activity as to create a new organizational entity and an appropriate unit which would warrant an election pursuant to an RA petition. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

15 16 00 Unfair Labor Practice Allegations
No Entries

15 20 00 Obligation of Parties
No Entries

15 24 00 Post-Hearing Submissions
No Entries
Remand

Case remanded for further hearing where HO did not permit introduction of evidence pertaining to the alleged supervisory status of the petitioner at the time the DR petition was filed, as raised in the Intervenor's pre-hearing motion to dismiss the petition. (Geological Survey, Rolla, Mo., A/SLMR No. 413)

A/S remanded case to ARD for the purpose of receiving additional evidence as the record contained insufficient evidence to enable him to make a determination. (Acad. of Health Sciences, and HQ., Ft. Sam Houston, A/SLMR No. 426)
A/S found that the two individual field office units sought by the petitioners were not appropriate and dismissed the petitions, finding that the separate claimed units do not contain employees who share a clear and identifiable community of interest separate and distinct from other employees of the Activity. A/S further found that such units, if established, would artificially fragment the Activity, and could not reasonably be expected to promote effective dealings and efficiency of agency operations. (Department of Agric., Off. of Automatic Data Systems, St. Louis, Mo., and Kansas City, Mo., A/SLMR No. 458)

Two units, one consisting of Bank Examiners and the other comprised of clerical employees, are appropriate where the two groups have different first-level supervision, work locations and duties, have little or no work contact, do not interchange and have separate areas of consideration for promotions and reductions-in-force. (Fed. Deposit Insurance Corp., A/SLMR No. 459)

Proposed District-wide unit held appropriate under all the circumstances, including clear and identifiable community of interest of employees involved, separate and distinct from all other employees of Region, and in view of holding that such unit will promote effective dealings and efficiency of agency operations. Cf. Defense Supply Agency, Defense Contract Administration Services Region (DCASR), Cleveland, Ohio, A/SLMR No. 372. (DSA, DCASR, San Francisco, Cal.; DCASD, Salt Lake City, Utah, A/SLMR No. 461)
Petitioned for unit inappropriate where community of interest was based essentially on a common state boundary, and an alternative unit, agreed upon by the parties, was also found to be inappropriate because, among other things, certain facilities containing employees who share a community of interest with petitioned for employees would be excluded. However, unit of all headquarters employees at one geographic location found to be appropriate. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Claimed unit is appropriate where, among other factors, included employees share a clear and identifiable community of interest. (Picatinny Arsenal, Dover, N. J., A/SLMR No. 474)

Claimed unit is not appropriate where included employees do not share a clear and identifiable community of interest which is separate and distinct from excluded employees. (See A/SLMR Nos. 480, 500, 505, and 506)

Proposed District-wide unit held appropriate under all the circumstances, including clear and identifiable community of interest of employees involved separate and distinct from all other employees of Region, and in view of holding that such unit will promote effective dealings and efficiency of agency operations. Cf. Defense Supply Agency Defense Contract Administration Services Region (DCASR), Cleveland, Ohio, A/SLMR No. 372. (DSA, DCASR, San Francisco, Cal.; DCASD, Salt Lake City, Utah, A/SLMR No. 461)

Claimed unit is not appropriate where, among other factors, it would result in fragmented units which could not reasonably be expected to promote effective dealings and efficiency of operations. (See A/SLMR Nos. 458, 480, 500, 505, 506)
20 04 12 **Efficiency of Operations (Cont'd)**

Claimed unit is not appropriate where, among other factors, it would result in fragmented units which could not reasonably be expected to promote effective dealings and efficiency of operations. (See A/SLMR Nos. 458, 480, 500, 505, 506)

Proposed District-wide unit held appropriate under all circumstances, including clear and identifiable community of interest of employees involved separate and distinct from all other employees of Region, and in view of holding that such unit will promote effective dealings and efficiency of agency operations. Cf. Defense Supply Agency, Defense Contract Administration Services Region (DCASR), Cleveland, Ohio, A/SLMR No. 372. (DSA, DCASR, San Francisco, Cal., DCASD, Salt Lake City, Utah, A/SLMR No. 461)

20 04 16 **Agency Regulations and Parties' Stipulations Not Binding on Assistant Secretary**

(See also: 25 12 04, "Challenges, Eligibility of Employees", for Stipulations of Parties Related to Challenges.)

No Entries

20 04 20 **Previous Certification**

RA petition seeking determination with respect to effect of reorganization on 14 of 17 recognized units dismissed as in circumstances Center-wide election not warranted. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

20 08 00 **Geographic Scope**

20 08 04 **World-wide**

No Entries

20 08 08 **Nation-wide**

A/S found that the two individual field office units sought by the Petitioners were not appropriate and dismissed the petitions, finding that the separate units do not contain employees who share a clear and identifiable
community of interest separate and distinct from other employees of the Activity. A/S further found that such units, if established, would artificially fragment the Activity, and could not reasonably be expected to promote effective dealings and efficiency of agency operations. (Dept. of Agric., Office of Automatic Data Systems, St. Louis, Mo. and Kansas City, Mo., A/SLMR No. 458)

State-wide

Unit of all nonprofessional education and training employees located in Pensacola, rather than petitioned for State-wide unit, found appropriate. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

City-wide

Unit of all nonprofessional education and training employees located in Pensacola, rather than petitioned for State-wide unit, found appropriate. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Organizational Scope

Agency-wide

No Entries

Activity-wide

A/S found that the two individual field office units sought by the Petitioners were not appropriate and dismissed the petitions, finding that the separate units do not contain employees who share a clear and identifiable community of interest separate and distinct from other employees of the Activity. A/S further found that such units, if established, would artificially fragment the Activity, and could not reasonably be expected to promote effective dealings and efficiency of agency operations. (Dept. of Agric., Office of Automatic Data Systems, St. Louis, Mo. and Kansas City, Mo., A/SLMR No. 458)
A/S concluded that the field employees of the Activity's Branch of Field Surveys shared a community of interest separate and distinct from the Activity's headquarters' employees and that a unit limited to the field employees would be appropriate for the purpose of exclusive recognition under the Order. He based his decision on the fact that there was minimal commonality between the Field District employees and the headquarters' employees in terms of job functions, working conditions, location, individual supervision and interchange. (Geological Survey, Mid-continent Mapping Cntr., A/SLMR No. 495)
20 12 24 **Field-wide (Cont'd)**

dividual supervision and interchange. (Geological Survey, Mid-Continent Mapping Center, A/SLMR No. 495)

20 12 28 **Region-wide**

Unit of all professional and nonprofessional employees in District held appropriate in view of finding that such employees enjoyed a clear and identifiable community of interest separate and distinct from all other employees in Region. (DSA, DCASR, San Francisco, Cal.; DCASD, Salt Lake City, Utah, A/SLMR No. 461)

Unit limited to the largest of 18 field audit offices within the Region is inappropriate as the Regional Office performs a centralized planning function which, among other things, has resulted in interchange and transfer of employees among the field audit offices in the Region; the area of consideration for competitive promotions is broader than the claimed unit; and effective control and final responsibility for most personnel matters for employees in the Region resides within the Regional Office. (Defense Contract Audit Agency, Chicago Branch Office, A/SLMR No. 463)

20 12 32 **Division-wide**

No Entries

20 12 36 **Area-wide**

No Entries

20 12 40 **District-wide**

Unit of all professional and nonprofessional employees in District held appropriate in view of finding that such employees enjoyed a clear and identifiable community of interest separate and distinct from all other employees in Region. (DSA, DCASR, San Francisco, Cal.; DCASD, Salt Lake City, Utah, A/SLMR No. 461)

20 12 44 **Branch-wide**

Unit of all professional and nonprofessional
employees of the Electronic Engineering Branch of the Airway Facilities Division, FAA, Southern Region, held inappropriate where job classifications of branch not unique to that sub-element, and branch, along with the other Region sub-elements of Division, performs a part of integrated work process. (FAA, Southern Region, A/SLMR No. 456)

Unit limited to one Branch Office, the largest of 18 field audit offices within the Region, is inappropriate as the Regional Office performs a centralized planning function which, among other things, has resulted in interchange and transfer of employees among the field audit offices in the Region; the area of consideration for competitive promotions is broader than the claimed unit; and effective control and final responsibility for most personnel matters for employees in the Region resides within the Regional Office. (Defense Contract Audit Agency, Chicago Branch Office, A/SLMR No. 463)

RA petition seeking determination with respect to effect of reorganization on 14 of 17 reorganized units dismissed as in circumstances Center-wide election not warranted. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N. J., A/SLMR No. 482)

Unit of Officers' Club, one of fourteen non-appropriated fund activities at base, found inappropriate where employees of all nonappropriated funds at base are subject to uniform personnel policies and, in many instances, have similar duties. (Officers Club, NAF Army Air Defense Center and Bliss, Ft. Bliss, Tex., A/SLMR No. 505)

A/S found that the two individual field office units sought by the Petitioners were not
Single Installation (Cont'd)

appropriate and dismissed the petitions, finding that the separate units do not contain employees who share a clear and identifiable community of interest separate and distinct from other employees of the Activity. A/S further found that such units, if established, would artificially fragment the Activity, and could not reasonably be expected to promote effective dealings and efficiency of agency operations. (Dept. of Agric., Office of Automatic Data Systems, St. Louis, Mo. and Kansas City, Mo., A/SLMR No. 458)

Unit of all nonprofessional education and training employees located in Pensacola, rather than petitioned for statewide unit, found appropriate. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Single-installation shop unit is inappropriate where all of the Activity's shops are supervised by the same official; personnel policies for all technicians are centralized in the same authority; there have been numerous transfers and details between the unit petitioned for and other elements of the Activity; the Activity's shops cooperate pursuant to common functions; and many of the employees of the petitioned for unit perform the same functions as similarly classified employees throughout the Activity. (Fifth U.S. Army, Camp McCoy, Wisc., 102d ARCOM, AMSA, Ship #44, A/SLMR No. 500)

Occupational Classification

Two units, one consisting of Bank Examiners and the other comprised of clerical employees, are appropriate where the two groups have different first-level supervision, work locations and duties, have little or no work contact, do not interchange and have separate areas of consideration in promotions and reductions-in-force. (Fed. Deposit Insurance Corp., A/SLMR No. 459)

WG employees of Academy of Health Sciences did not share clear and identifiable community of interest with claimed GS employees. (Acad. of Health Sciences, Ft. Sam Houston, Tex.: HQ, Health Services Com., Ft. Sam Houston, Tex., A/SLMR No. 490)

6-30-75
20 12 64  Occupational Classification (Cont'd)

Claimed unit of clerical employees in County Offices not appropriate because included employees do not share a clear and identifiable community of interest which is separate and distinct from other employees. (FmHA of Agric., Little Rock, Ark., A/SLMR No. 506)

20 16 00  Special Situations

20 16 04  Severance

Petition seeking to sever unit of civilian firefighters from existing, base-wide unit found to have been filed untimely, inasmuch as civilian firefighters covered by current negotiated agreement. (Air Force, Davis-Monthan AFB, Ariz., A/SLMR No. 462, FLRC No. 74A-92; Air Force, 366th Combat Support Group, Mountain Home AFB, Idaho, A/SLMR No. 530; Air Force, 321st Combat Support Group, Grand Forks AFB, N.D., A/SLMR No. 531)

A/S found that the exclusion of the BHA Denver Field Office employees from the existing unit was unwarranted and he ordered the Activity-Petitioner's CU petition dismissed. He based his finding on the fact that the BHA Denver Field Office employees were on the eligibility list and, in fact, voted without challenge by the Activity-Petitioner in the election which resulted in the certification of the AFGE as exclusive representative of the Regional Office unit; the Field Office employees have been considered to be a part of the Regional Office unit by the Field Office employees and by the Activity-Petitioner since the issuance of the certification; and there is no indication that the Field Office employees have not been fairly and effectively represented by AFGE. (HEW, Region VIII, A/SLMR No. 476)

Severance of non-guards from combined guard-nonguard unit is consistent with purposes and policies of EO. (VA Hosp., Montrose, N.Y. A/SLMR No. 484)

Severance from existing unit denied where there is no evidence that incumbent labor organization
Severance (Cont'd)

has failed to represent petitioned for employees (five quality assurance specialists) in a fair and effective manner within a broader unit. (GSA, Region 5, Quality Control Div., Federal Supply Service, A/SLMR No. 526)

Accretion

A/S ordered that the existing exclusively recognized Regional Office unit should be clarified to include the nonprofessional employees of the Bureau of Hearings and Appeals Development Center as he found that the employees of the Development Center share a community of interest with and are, in fact, an integral part of the existing unit which includes the Bureau of Hearings and Appeals Denver Field Office. (HEW, Region VIII, A/SLMR No. 476)

Accretion occurred where certain employees in the steward and unlicensed civilian marine personnel units at former ship operating Command, who were transferred pursuant to a reorganization, were thoroughly combined and integrated into existing units at another Command. (Military Sealift Com., Pacific Naval Supply Cntr., Oakland, Cal., A/SLMR No. 494)

Eligibility

No Entries

Residual Employees

No Entries

Self-Determination

(For Self-Determination involving professional employees. (See: 20 20 00 "Employees Categories and Classification, Professional Employees", See also: 20 12 64, "Occupational Classification")

No Entries

Supervisory Unit

No Entries
Reorganization

RA petitions dismissed where recognized units were no longer in existence as a result of a reorganization, thus freeing the Activity from the obligation of recognizing the exclusive representative involved. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

RA petition seeking determination with respect to effect of reorganization on 14 of 17 recognized units dismissed as in circumstances Center-wide election not warranted. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

AC petitions dismissed where A/S found that recognized units were no longer in existence as a result of a reorganization. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

Evidence did not establish that employees in units no longer in existence as result of major reorganization had become so integrated with other employees of Activity as to create a new organizational entity and an appropriate unit which would warrant an election pursuant to an RA petition. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

As a result of a reorganization abolishing certain activities, consolidating their functions in a new Activity, and reassigning the employees involved throughout the new Activity's operational segments, the exclusively represented unit of employees of the new Activity is clarified to include former employees of one of the discontinued Activities exclusively represented by another labor organization where they work alongside and share common supervision with employees in the overall unit in the new Activity. (Naval Education and Training Center (NETC), Newport, R.I., A/SLMR No. 496)

A/S ordered RA petition dismissed where previously certified bargaining unit of all General Schedule and Wage Grade employees of HQ, Continental Army Com., Ft. Monroe, Va., now designated as HQ, Army Training and Doctrine Com., Ft. Monroe, Va., remained appropriate after reorganization. (HQ, Army Training and Doctrine Com., (TRADOC), Ft. Monroe, Va., A/SLMR No. 507)
Employee Categories and Classifications

Accounting Supervisor (Accounting), S-3 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Administrative Service Assistant found not to be a supervisor and included in the unit. (Military Dist. of Wash., Commissary Div. Office, Cameron Sta., A/SLMR No. 478)

Aircraft Instrument Control Systems Mechanic (Leader) WG-12, is not supervisor. (Ariz. Nat'l. Guard, Air Nat'l. Guard, Sky Harbor Airport, A/SLMR No. 436)

Assistant Section Supervisor (Main Store), S-1, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Stock Control Supervisor (Warehouse), S-1, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Supervisor (Enlisted Service Club/Food Services), S-1, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Supervisor (Pantry), H-7, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Utility Supervisor (Maintenance/Property) H-11, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Business Management Analysts are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Cartographic Technicians, with the exception of those technicians primarily responsible for elevation meter operations, were supervisors. (Geological Survey, Mid-Continent Mapping Cntr., A/SLMR No. 495)

Clerk-Typist is not confidential employee. (Agric. Research Service, Plum Island Animal Disease Cntr., A/SLMR No. 428)

Club Management Specialists are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)
Employee Categories and Classifications (Cont'd)

Club Management Specialist is a supervisor based on parties' stipulation. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Commissioned Bank Examiners are not supervisors. (Fed. Deposit Insurance Corp., A/SLMR No. 459)

Computer Operators, GS-8 are not supervisors. (Western Mgt. Inf. Systems Off., Mil. Traffic Mgt. Com., Oakland Army Base, Oakland, Cal., A/SLMR No. 503)

Computer Programmer Team Leader is not supervisor. (VA, Data Processing Center, Austin, Tex., A/SLMR No. 523)

Computer Specialist, GS-12 is not management official. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Computer Specialist, GS-12 is not management official. (Western Mgt. Inf. Systems Off., Mil. Traffic Mgt. Com., Oakland Army Base, Oakland, Cal., A/SLMR No. 503)

Computer Systems Analysts, GS-12 are supervisors. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Confidential Employees

Clerk-Typist who performs administrative services for both Administrative Officer and Office Services Manager found not to be a confidential employee since mere access to personnel or statistical information is not sufficient to establish that employee is serving in a confidential capacity. (Agric. Research Service, Plum Island Animal Disease Cntr., A/SLMR No. 428)

Secretaries excluded from unit as "confidential employee": Secretaries to the Activity's Director and Chief, Engineering and Plan Management Group. (Agric. Research Service, Plum Island Animal Disease Cntr., A/SLMR No. 428)

Digital Computer Systems Administration Specialist is supervisor, where he responsibly directs employees using independent judgement as to regular assignment of work and granting leave. (VA Data Processing Cntr, Austin, Tex., A/SLMR No. 523)
Firefighters

Firefighters assigned incidental security functions in addition to firefighting are not "guards" within the meaning of Sec. 2(d) of EO. (Army Engnr., Waterways Experiment Sta., Vicksburg, Miss., A/SLMR No. 497)

Firefighter Crew Chiefs who are stationed at a firehouse and whose primary job is to prepare for, and respond to, fires and threats of fires, are not guards within the meaning of the EO. (VA Hosp., Montrose, N.Y., A/SLMR No. 484)

Shift Captains who routinely approve leave and assign work for other Firefighters and do not hire, fire, award or evaluate employees are not supervisors. (Army Engnr., Waterways Experiment Sta., Vicksburg, Miss., A/SLMR No. 497)

Food Activity Supervisor, GS-7 is not supervisor. (AAFES, Redstone Arsenal Exchange, Redstone Arsenal, Ala., A/SLMR No. 491)

General Schedule

Unit Appropriate

Claimed units of GS employees appropriate where GS employees do not share a community of interest with WG employees. (Acad. of Health Sciences, Army, Health Services and HQ, Com., Ft. Sam Houston, Texas, A/SLMR No. 490)

General Supply Assistant (Item Accounting Supervisor) is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

General Supply Assistant (Materiel Control Supervisor) is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Guards
(See also: 10 32 00, "Qualifications to Represent Specified Categories of Employees")
Guards

Firefighters assigned incidental security functions in addition to firefighting are not "guards" within the meaning of Sec. 2(d) of EO. (Army Engr. Waterways Experiment Sta., Vicksburg, Miss., A/SLMR No. 497)

Firefighter Crew Chiefs who are stationed at a firehouse and whose primary job is to prepare for, and respond to, fires and threats of fires, are not guards within the meaning of the EO. (VA Hosp., Montrose, N.Y., A/SLMR No. 484)

Police Officers were guards within the meaning of the EO. (VA Hosp., Montrose, N.Y., A/SLMR No. 484)

Supervisory Policeman GS-5 (Desk Sgt.) is not a supervisor. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

Supervisory Policeman GS-5 (Shift Sgt.) is a supervisor. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

Health Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Loan Specialists are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Maintenance Chief (Maintenance/Property), H-15, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Management Official
(See also: 05 04 00, "Definitions".)

Business Management Analysts are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Club Management Specialists are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)
Management Official (Cont'd)

Computer Specialist, GS-12 is not management official. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)


Loan Specialists are not management officials. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Physical Science Administrator, although an Assistant to the Director, is not a management official where his role is that of an employee rendering resource information or recommendations with respect to existing policies. (Agr., Agr. Rese. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Procurement Analyst is not a management official. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

A/S found, in agreement with the ALJ, that the evidence did not establish that the Activity's Program Managers or their equivalent were management employees within the meaning of the Order. (Nat'l. Science Foundation, A/SLMR No. 487)

Systems Auditor possesses no indicia of supervisory or management authority, nor does he possess any "special status" which would preclude his taking part in decertification activity. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)

Millwright is a work leader, not a supervisor, where he works with employees as a crew and his supervisory function consists only of routinely assigning tasks to be performed on a day-to-day basis. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)
Non-Appropriated Fund Employees

Unit Not Appropriate

Unit of Officers' Club, one of fourteen non-appropriated fund activities at base, found inappropriate where employees of all non-appropriated funds at base are subject to uniform personnel policies and, in many instances, have similar duties. (Officers Club, NAF Army Air Defense Center and Ft. Bliss, Ft. Bliss, Tex., A/SLMR No. 505)

Non-Project Leaders, although responsible for scientific research in certain specific areas and have employees assigned to them, are Team Leaders, not supervisors, where they work under the direction of a Research or Project Leader and their relationship to the employees is one of a senior employee to junior employee. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Office Supervisor (Main Store) H-10 is not supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Physical Science Administrator, although an assistant to the Director, is not a management official where his role is that of an employee rendering resource information or recommendations with respect to existing policies. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Police
(See "Guards")

Procurement Analyst is not a management official. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)

Production Controller is not supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept. Austin, Tex., A/SLMR No. 524)

Professional and Non-Professional Employees

Unit of all professional and nonprofessional employees in District held appropriate in view of finding that such employees enjoyed a clear and identifiable community of interest separate and distinct from all other employees in Region. (DSA, DCASR, San Francisco, Cal.; DCASD, Salt Lake City, Utah, A/SLMR No. 461)
Program Managers or their equivalent are not management employees. In addition, nine of the Activity's Program Managers were not supervisors while four of the Activity's Program Managers were supervisors. (Nat'l. Science Foundation, A/SLMR No. 487)

Project Leader is a supervisor where, under the terms of a negotiated agreement, he participates in the first step of the grievance procedure and possesses the authority to adjust grievances at that level. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Purchasing Agent is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Seasonal Employees
(See: 20 20 00, "Temporary Employees")

Secretary
(See: 20 20 00, "Confidential Employees")

Section Supervisor (Main Store, S-4, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Senior Buyer (Purchasing), S-5, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Senior Technician found not to be a supervisor when performing compilations review as he did not exercise any of the duties attributed to a supervisor as enumerated in Sec. 2(c) of the EO and, in fact, his job amounts merely to a technical reviewer under the overall supervision of his Section Chief. (Geological Survey, Rolla, Mo., A/SLMR No. 460)

Senior Utility Man (Maintenance/Property) H-8 is not supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Shipping Supervisor (Warehouse), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Stock Control Supervisor (Warehouse), S-2 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)
Employee Categories and Classifications (Cont'd)

Supervisors

(See also: 05 04 00, "Definitions"; 20 20 00, "Firefighters," "Management Officials," "Teachers," and "Nurses")

Accounting Supervisor (Accounting), S-3 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Administrative Service Assistant is not a supervisor. (Military Dist. of Wash., Commissary Div. Office, Cameron Sta., A/SLMR No. 478)

Aircraft Instrument Control Systems Mechanic (Leader), WG-12 is not supervisor. (Ariz. Nat'l. Guard, Air Nat'l. Guard, Sky Harbor Airport, A/SLMR No. 436)

Assistant Section Supervisor (Main Store), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Stock Control Supervisor (Warehouse), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Supervisor (Enlisted Service Club/Food Services), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Supervisor (Pantry) H-7 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Assistant Utility Supervisor (Maintenance/Property), H-11 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Cartographic and Survey Technicians of the Field District, Branch of Field Surveys, with the exception of those Cartographic Technicians primarily responsible for the elevation meter operation, were supervisors as they had the authority to, and, in fact, exercised authority with respect to their Assistants to hire, fire,
Supervisors (Cont'd)


Club Management Specialist is a supervisor based on parties' stipulation. (Army Club Mgt. Directorate, TAGCEN, Ft. Meade, Md., A/SLMR No. 521)


Commissioned Bank Examiners are not supervisors. (Fed. Deposit Insurance Corp., A/SLMR No. 459)

Computer Systems Analysts, GS-12 are supervisors. (Naval Education and Training Information Services Activity, Pensacola, Fla., A/SLMR No. 466)

Computer Programmer Team Leaders are not supervisors. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)

Digital Computer Systems Administration Specialist is supervisor where he responsibly directs employees using independent judgement as to regular assignment of duties and granting leave. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)
Employee Categories and Classifications (Cont'd)

Firefighter Shift Captains who routinely approve leave and assign work for other Firefighters and do not hire, fire, award or evaluate employees are not supervisors. (Army Engnr. Waterways Experiment Sta., Vicksburg, Miss., A/SLMR No. 497)

Food Activity Supervisor, GS-7 is not supervisor. (AAFES, Redstone Arsenal Exchange, Redstone Arsenal, Ala., A/SLMR No. 491)

General Supply Assistant (Item Accounting Supervisor) is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

General Supply Assistant (Materiel Control Supervisor) is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Health Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Maintenance Chief (Maintenance/Property), H-15 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Millwright is a work leader, not a supervisor, where he works with employees as a crew and his supervisory function consists only of routinely assigning tasks to be performed on a day-to-day basis. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Non-Project Leaders, although responsible for scientific research in certain specific areas and have employees assigned to them, are team leaders, not supervisors, where they work under the direction of a Research or Project Leader and their relationship to other employee is one of a senior employee to junior employee. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)
Office Supervisor (Main Store) H-10 is not supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Production Controller is not supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

A/S found that nine of the Activity's Program Managers, or their equivalent, were not supervisors within the meaning of Section 2(c) of the Order based on the factors that such direction as they may have given their secretaries was routine in nature and that the evidence was insufficient to establish that they effectively evaluated the performance of other employees or effectively recommended hiring. A/S found, however, that four of the Activity's Program Managers or their equivalent were supervisors within the meaning of Section 2(c) of the Order as they either prepared and signed their secretary's annual performance evaluation or effectively recommended their secretary for promotion. (Nat'l. Science Foundation, A/SLMR No. 487)

Project Leader is a supervisor where, under the terms of a negotiated agreement, he participates in the first step of the grievance procedure and possesses the authority to adjust grievances at that level. (Agr., Agr. Res. Serv., Eastern Reg. Res. Center, Phila., Pa., A/SLMR No. 479)

Purchasing Agent is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Section Supervisor (Main Store), S-4 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Senior Buyer (Purchasing), S-5, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)
Senior Technician found not to be a supervisor when performing compilations review as he did not exercise any of the duties attributed to a supervisor as enumerated in Sec. 2(c) of the EO and, in fact, his job amounts merely to a technical reviewer under the overall supervision of his Section Chief. (Geological Survey, Rolla, Mo., A/SLMR No. 460)

Senior Utility Man (Maintenance/Property, H-8 is not supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Shipping Supervisor (Warehouse), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Stock Control Supervisor (Warehouse), S-2 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Supervisor (Cash Office), H-10 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Supervisor (Enlisted Service Club/Food Services), S-3 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Supervisory (Pantry), S-1 is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Supervisory Management Assistant is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Supervisory Policeman, GS-5 (Desk Sgt.) is not a supervisor. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

Supervisory Policeman, GS-5 (Shift Sgt.) is supervisor. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

Supply Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Training Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)
Supervisors (Cont'd)

Utility Supervisor (Maintenance/Property), S-1, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Supply Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Survey Technicians are supervisors. (Geological Survey, Mid-Continent Mapping Cntr., A/SLMR No. 495)

Systems Auditor possesses no indicia of supervisory or management authority, nor does he possess any "special status" which would preclude his taking part in DR activity. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)

Team Leaders were not supervisor. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)

Temporary Employees

Topographic Field Assistants excluded from unit as they were hired for a specific period of time and had no reasonable expectation of future employment beyond that period. (Geological Survey, Mid-Continent Mapping Cntr., A/SLMR No. 495)

Training Technician is supervisor. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Utility Supervisor (Maintenance/Property), S-1, is supervisor. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

Post-Decisional Intervention, Showing of Interest and Withdrawal

20 24 04 Posting of Notice of Unit Determination
No Entries

20 24 08 Showing of Interest
No Entries

20 24 12 Opportunity to Withdraw
No Entries
25 00 00 REPRESENTATION ELECTION AND POST ELECTION STAGES

25 04 00 Voting Procedures

25 04 04 Professionals

No Entries

25 04 08 Self-Determination

No Entries

25 04 12 Role of Observers

No Entries

25 04 16 Severance

No Entries

25 08 00 Objections

25 08 04 Under EO 10988

No Entries.

25 08 08 Procedure

A/S will not consider conduct occurring prior to the filing of an election petition as grounds for setting aside the election. (R A/S No. 58)

25 08 12 Timing of Objectionable Conduct

A/S will not consider conduct occurring prior to the filing of an election petition as grounds for setting aside the election. (R A/S No. 58)

25 08 16 Agency Rules on Campaigning

No Entries

25 08 20 Campaign Communications

No Entries

25 08 24 Promises of Benefit

No Entries
25 08 00 Objections (Cont'd)

25 08 28 Conduct of Election

A/S will not consider conduct occurring prior to the filing of an election petition as grounds for setting aside the election. (R A/S No. 58)

25 08 32 Agency Neutrality

No Entries

25 12 00 Challenges

25 12 04 Eligibility of Employees

(See also: 20 20 00, "Employee Categories and Classifications")

No Entries

25 12 08 Questions Concerning Ballot

No Entries

25 12 12 Timing of Challenge

No Entries

25 16 00 Certification

No Entries

25 20 00 Clarification of Unit

(See also: 10 04 16, "Types of Petitions: Procedure, CU").

Established unit is clarified by inclusion of two classifications and by excluding fifteen classifications because they perform supervisory duties. (Navy, San Diego Marine Corps Exchange 10-2, Cal., A/SLMR No. 409)

A/S clarified unit by rejecting Activity's contention that Aircraft Instrument Control Systems Mechanic (Leader), WG-12 should be excluded from unit as a supervisor. (Ariz. Nat'l. Guard, Air Nat'l. Guard, Sky Harbor Airport, A/SLMR No. 436)
Clarification of Unit (Cont'd)

A/S found that the exclusion of the BHA Denver Field Office employees from the existing unit was unwarranted and he ordered the Activity-Petitioner's CU petition dismissed. He based his finding on the fact that the BHA Denver Field Office employees were on the eligibility list and, in fact, voted without challenge by the Activity-Petitioner in the election which resulted in the certification of the AFGE as exclusive representative of the Regional Office unit; the Field Office employees have been considered to be a part of the Regional Office unit by the Field Office employees and by the Activity-Petitioner since the issuance of the certification; and there is no indication that the Field Office employees have not been fairly and effectively represented by AFGE. (HEW, Region VIII, A/SLMR No. 476)

A/S ordered that the existing exclusively recognized Regional Office unit should be clarified to include the nonprofessional employees of the BHA Development Center as he found that the employees of the Development Center share a community of interest with and are, in fact, an integral part of, the existing unit which includes the BHA Denver Field Office. (HEW, Region VIII, A/SLMR No. 476)

Unit clarified to exclude Project Leaders as supervisors who participate in first step of negotiated grievance procedure and are authorized to adjust grievances at that level. (Agr., Agr. Res. Serv., Eastern Reg. Res. Cntr., Phila., Pa., A/SLMR No. 479)

As a result of a reorganizationabolishing certain activities, consolidating their functions in a new Activity, and reassigning the employees involved throughout the new Activity's operational segments, the exclusively represented unit of employees of the new Activity is clarified to include former employees of one of the discontinued activities exclusively represented by another labor organization where they work alongside and share common supervision with employees in the overall unit in the new Activity. (Naval Education and Training Cntr (NETC), Newport, R.I., A/SLMR No. 496)
Clarification of Unit (Cont'd)

Unit clarified by excluding "working leaders" in nine job classifications as supervisors because they selected, evaluated, and made effective recommendations with regard to personnel matters concerning members of their crews. A/S noted that those found supervisors based solely on authority to evaluate would not be considered supervisors following effective date of EO 11838. (Barksdale AFB, Bossier City, La., A/SLMR No. 499)

Unit clarified by including "working leaders" in ten job classifications because their authority with regard to members of their crews was of a routine nature and dictated by established procedures. (Barksdale AFB, Bossier City, La., A/SLMR No. 499)

CU petition dismissed where A/S found employees of Complex Office were not part of exclusively recognized unit of employees of Long Beach Navy Commissary Store. (Navy Commissary Complex Office, Long Beach, Cal., A/SLMR No. 522)

Unit clarified by excluding employees in seven of eight job classifications because they were found to be supervisors within the meaning of 2(c) of the Order. (Nat'l. Guard Bureau, Adjutant General's Dept., Austin, Tex., A/SLMR No. 524)

Amendment of Recognition or Certification

The A/S found that the petition, which sought to change the affiliation of the local labor organization from one international, the Carpenters, to another, the AFGE, did not meet the standards, established in the decision, to determine if change of affiliation met the desires of employees, as no special meeting of the membership, limited solely to the issue of a change in affiliation, was held; the members who signed a petition forwarded to the Carpenters did not have the opportunity to be fully apprised of the change in affiliation; and a vote of the members by secret ballot was never taken. (VA Hosp., Montrose, N.Y., A/SLMR No. 470)
Recognition amended to reflect a change in the organizational location of a unit of firefighters and to add the designation "General Schedule" to the organizational title used to describe the covered employees. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

Recognition amended to reflect a change in the organizational location of a unit of guards and to add the designation "General Schedule Uniformed Police" to the organizational title used to describe the covered employees. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 481)

AC petitions dismissed where A/S found that recognized units were no longer in existence as a result of a reorganization. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)

Two recognitions amended to reflect changes in the designation of organizational location. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 482)
Requisites for Charges and Complaints

The A/S, in concurrence with the ALJ granted the Respondent's motion to dismiss on the grounds that the charge and/or complaint were not timely filed as the evidence utilized by the Complainant in support of its allegation dealt solely with events occurring more than 6 and 9 months, respectively, prior to the filing of the pre-complaint charge and complaint in this matter. (HUD, Detroit Area Office, Mich., A/SLMR No. 414)

The A/S, in concurrence with the ALJ granted the Respondent's motion to dismiss on the grounds that the Complainant had failed to establish a prima facie case as there was no evidence that the employee involved was denied a promotion and was possibly subjected to more serious working conditions because of her union activities. (HUD, Detroit Area Office, Mich., A/SLMR No. 414)

The A/S found, in agreement with the ALJ, that the Respondent's motion to dismiss, based on the Complainant's alleged noncompliance with the pre-complaint charge requirements of the A/S's Regs., be denied because the Respondent failed to raise the matter in a timely fashion with the Area Administrator during the investigation period provided for in Sec. 203.5 of the A/S's Regs. or with the ARD prior to the issuance of the Notice of Hearing. The A/S, however, rejected the ALJ's rationale that a formal written charge is nothing more than "ritualistic adherence" to the Regs. when the parties' positions are already known to each other. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

As complaint was filed within nine months of the occurrence of the alleged unfair labor practice (although not within nine months of the Respondent's announcement of the policy change constituting the alleged unfair labor practice), the A/S concurred with the ALJ's determination that the complaint had been timely filed in accord with the A/S's Regs. (Dugway Proving Ground, Dept. of the Army, Dugway, Utah, A/SLMR No. 511)
30 08 00 Complaint Proceedings: Investigation Stage
No Entries

30 12 00 Hearing

30 12 04 Rulings of ALJs
No Entries

30 12 08 Untimely Amendments to Complaints
No Entries

30 12 12 Failure to Appear
No Entries

30 12 16 Prejudicial Evidence
No Entries

30 12 20 Technical Deficiencies
No Entries

30 12 24 Evidence and Burden of Proof

The A/S, in concurrence with the ALJ, granted the Respondent's motion to dismiss on the grounds that the charge and/or complaint were not timely filed as the evidence utilized by the Complainant in support of its allegation dealt solely with events occurring more than 6 and 9 months, respectively, prior to the filing of the pre-complaint charge and complaint in this matter. (HUD, Detroit Area Office, Mich., A/SLMR No. 414)

The A/S, in concurrence with the ALJ, granted the Respondent's motion to dismiss on the grounds that the Complainant had failed to establish a prima facie case as there was no evidence that the employee involved was denied a promotion and was possibly subjected to more serious working conditions because of her union activities. (HUD, Detroit Area Office, Mich., A/SLMR No. 414)
Upon receipt of Civil Service Commission's interpretation of its directives, the FLRC issued its Decision on Referral of Major Policy Issues from A/S, FLRC No. 73A-53, wherein it found that the Federal Personnel Manual (1) prohibits an employee or his representative from seeking the appraisal of another employee, or adducing evidence thereon, in an unfair labor practice proceeding, but (2) permits the A/S, his representative, and/or the ALJ, in a proceeding under the EO, to review such an appraisal if necessary for the execution of official responsibility and if done in a manner that maintains that appraisal's confidentiality. A/S vacated his Order Staying Remand and directed the ALJ to reconsider his decision in the subject case in accordance with the Decision and Remand in A/SLMR No. 295, and with the FLRC's Decision. (NLRB, Region 17, and NLRB, A/SLMR No. 467; FLRC No. 73A-53)

A/S rejected Complainant's post-hearing argument where no evidence was presented at the hearing that the Respondent failed to comply with or obstructed service of a Request for Appearance of Witness, and the Complainant failed to renew its offer of proof made at the commencement of the hearing concerning the testimony of the witness sought. (IRS, Fresno Service Cntr., A/SLMR No. 489)

A/S adopted ALJ's findings, conclusions and recommendation that complaint be dismissed for lack of cooperation and lack of prosecution where record showed that, despite numerous admonitions and warnings to Complainant that his refusal to accept certified mail resulted in severely impeding the orderly conduct of the hearing and that continued refusal would result in recommendation to dismiss, Complainant persisted in conduct which impeded further orderly conduct of hearing. (AFGE, Nat'l. Office, and AFGE Local 2677, A/SLMR No. 483)
30 12 00 **Hearing (Cont'd)**

**30 12 28 Lack of Cooperation (Cont'd)**

Where Respondent refused to comply with ALJ's Request for Production of Documents and evidence revealed Respondent had no justification for failing to comply with such Requests, the A/S agreed with the ALJ's decision to exclude from evidence all documents sought in the Requests which Respondent sought to introduce in its own case, but further found that all written and oral evidence related to the documents covered by the Requests should have been excluded and not considered in the determination of the case. Accordingly, the A/S remanded the 19(a)(1) and (2) complaint to the ALJ for further consideration consistent with his decision. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 425)

30 16 00 **Post-Hearing**

Motion by Party-in-Interest, Tennessee Valley Trades and Labor Council, in exceptions seeking to set aside ALJ's Report and Recommendations and remand case for further hearing based on asserted failure to provide Party-in-Interest a full opportunity to participate in hearing, denied by A/S, where, as here, Party-in-Interest was served with Notice of Hearing, its request for postponement was denied by the ARD, and Party-in-Interest did not, thereafter, renew such motion before ALJ, nor enter an appearance at hearing. (TVA, A/SLMR No. 509)

30 20 00 **Stipulated Record**

Pursuant to Sec. 206.5(b) of Regs., ARD transferred case to the A/S for decision on the stipulations exhibits and briefs. (FAA, A/SLMR No. 517)

30 24 00 **Employee Status: Effect on Unfair Labor Practices**

Respondent's contention that Complainant's actions in passing out dues revocation forms was a violation of the Order because he alleged it was a supervisor, rejected where Complainant found not to be a supervisor under Sec. 2(c). (AFGE, Local 987, A/SLMR No. 420)
Effect of Other Proceedings or Forums

A/S, in agreement with ALJ's denial of Respondent's motion to dismiss the complaint based on the arguments that the principle issue in the case involved a disagreement as to the interpretation of the terms of the parties' negotiated agreement which contained a grievance procedure and that the A/S should not consider the problem in the context of an unfair labor practice, found that the section of the negotiated agreement involved was clear and unambiguous and that the A/S had jurisdiction to decide the issues involved in this matter. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 415)

Apparent holding of ALJ that action of Joint Committee under terms of collective bargaining agreement was, in effect, an arbitration procedure which, if fair and regular and not repugnant to the Order, would have a binding effect under Spielberg doctrine enunciated in private sector, rejected by A/S. In the view of A/S, Joint Committee procedure was no more than a contractually established method of investigating work stoppage incidents and, as such, is not an extension of the contractually established grievance-arbitration machinery and, accordingly, the Spielberg doctrine is not applicable. (TVA, A/SLMR No. 509)

A/S rejected Respondent's argument that, because there is an established grievance machinery in the negotiated agreement between Respondent and the recognized exclusive bargaining representative of its employees, the A/S is precluded from asserting jurisdiction and considering allegations of unfair labor practices in connection with the Respondent's actions. (TVA, A/SLMR No. 509)

A/S rejected Respondent's contention that questions arising from an arbitration award are not appropriate matters for enforcement by the A/S within the framework of the unfair labor practice procedure, citing Department of the Army, Aberdeen Proving Ground, A/SLMR No. 412, FLRC 74A-46. (FAA, A/SLMR No. 517)
Major Policy Issue Raised

Where Activity argued, by way of defense, that it was unable to make payment of amount awarded Com­plainant in arbitration award because no appropriation existed for payment and a special authorization from U.S. Comptroller General was needed to implement the award, A/S transferred case, pursuant to Sec. 2411.4 of the Rules and Regs. of the FLRC and Sec. 203.25(d) of the A/S's Regs., as involving major policy issues. (Army, Aberdeen Proving Ground, A/SLMR No. 412; see also FLRC No. 74A-46 and A/SLMR No. 518)

Upon receipt of Civil Service Commission's interpretation of its directives, the FLRC issued its Decision on Referral of Major Policy Issues from A/S, FLRC No. 73A-53, wherein it found that the Federal Personnel Manual (1) prohibits an employee or his representative from seeing the appraisal of another employee, or adducing evidence thereon, in an unfair labor practice proceeding, but (2) permits the A/S, his representative, and/or the ALJ, in a proceeding under the EO, to review such an appraisal if necessary for the execution of official responsibility and if done in a manner that maintains that appraisal's confidentiality. A/S vacated his Order Staying Remand and directed the ALJ to reconsider his decision in the subject case in accordance with the Decision and Remand in A/SLMR No. 295, and with the FLRC's Decision. (NLRB, Region 17, and NLRB, A/SLMR No. 467; FLRC No. 73A-53)
UNFAIR LABOR PRACTICES: AGENCY

35 04 00 General

35 04 04 Guidance or Directives of Civil Service Commission or Agency

No Entries

35 04 08 Waiver of Rights Granted by Executive Order

Negotiated agreement did not constitute a clear and unmistakable waiver of Complainant's right under EO to designate a retired employee as a Chief Representative. (IRS, Omaha District Office, A/SLMR No. 417)

35 04 12 Management Rights

No Entries

35 08 00 Section 19(a)(1)

A/S noted that a violation of any of other subsections of Sec. 19(a) necessarily would tend to interfere with, restrain, or coerce employees in exercise of their rights under Order and, therefore, also would, when alleged, derivatively constitute a violation of Sec. 19(a)(1). (AAFES, Pacific Exchange Sys., Hawaii Regional Exchange, A/SLMR No. 454)

35 08 04 Interference

Daily work reports filled out by employee which were referred to and utilized by supervisor in written report of interview which criticized work performance of employee found to constitute relevant and necessary information in connection with determining whether or not to initiate grievances, and refusal of Activity to make such reports available to bargaining representative, upon demand, constitutes violation of Sec. 19(a)(1). (HEW, SSA, Kansas City Payment Cntr., Bur. of Retirement and Survivors Insurance, A/SLMR No. 411)
Section 19(a)(1) (Cont'd)

Interference (Cont'd)

Failure of Activity to provide, upon demand by bargaining representative, daily work reports filled out by employee which were referred to and utilized by supervisor in written report of interview as basis for critical remarks on work performance of employee found not violative of Sec. 19(a)(1) of Order where evidence showed that employee retained copies of such work reports and bargaining representative could have obtained them from the employee. (HEW, SSA, Kansas City Payment Cntr., Bur. of Retirement and Survivors Insurance, A/SLMR No. 411)

A/S, in agreement with ALJ, found that in the absence of any evidence of anti-union motivation, the Complainant failed to establish that Respondent violated Sec. 19(a)(1) in refusing to grant the type of passes previously issued to Complainant's representatives, thereby making their entry into the Shipyard on the Complainant's business more difficult. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 415)

Activity's issuance of insubordination notices to employees for their failure to attend a grievance meeting under an agency grievance procedure found not violative of Sec. 19(a)(1) where evidence failed to establish that such action was motivated by anti-union considerations or constituted disparate treatment based on union considerations. (GSA, Region 7, Fort Worth, Tex., A/SLMR No. 416)

Respondent's attempt to dictate the selection of the Complainant's Chief Representative constituted an attempt to interfere improperly in the internal affairs of the Complainant. (IRS, Omaha District Office, A/SLMR No. 417)
Activity violated Sec. 19(a)(1) by not conferring and consulting with Union on impact upon employees of reassignments it made, thereby evidencing to employees that it could act unilaterally with respect to negotiated terms and conditions of employment with regard to their exclusive representative. (Fed. Railroad Adm., A/SLMR No. 418)

Activity did not violate Sec. 19(a)(1) by denying employee's request for union representation during "Performance Interview" where it was determined that subject interview was not a formal discussion within meaning of Sec. 10(e) of EO. (HEW, SSA, Great Lakes Program Cntr., A/SLMR No. 419)

Activity did not violate Sec. 19(a)(1) by virtue of its alleged statement to Union President that she would be sorry if union posted bulletins urging employees to boycott free coffee and cake offered by vending machine operator to promote its operation, as, under the circumstances, such statement was not deemed coercive nor motivated by animus toward the union, but reflected only Activity's overriding desire to solve its food problem. (IRS, Mid-Atlantic Service Cntr., A/SLMR No. 421)

A/S, in agreement with the ALJ, found that Sec. 7(d)(1) of the Order does not confer any rights enforceable under Sec. 19. (Naval Air Sta. (North Island), San Diego, Cal., A/SLMR No. 422)

A/S, in agreement with the ALJ, found that even if the Respondent had, without justification, insisted that the Complainant state grievance in writing, such a violation of its unilaterally established grievance procedure, in the absence of evidence of discriminatory motivation or disparity of treatment based on union membership considerations, would not violate Sec. 19(a)(1) of the Order. (Naval Air Sta. (North Island), San Diego, Cal., A/SLMR No. 422)
Where Respondent refused an employee's request for representation before a facility review board which was conducting an investigation of a systems error in which the employee was involved and evidence established function of the review board was wholly investigative, the A/S, noting an absence of exceptions, found, in agreement with the ALJ, that the proceedings before the review board did not constitute a formal discussion within the meaning of Sec. 10(e) of the Order and dismissed the complaint. Also, in view of his disposition of the case, the A/S found it unnecessary to decide whether the matter had been rendered moot by subsequent events. (FAA, Las Vegas Air Traffic Control Tower, A/SLMR No. 429)

A/S adopted ALJ's finding that proceedings before Agency's Facility Review Board did not constitute a formal discussion within the meaning of Sec. 10(e) and, therefore, the Agency's denial of representation to the Complainant was not violative of the Order. (FAA, Cleveland ARTC Center, Oberlin, Ohio, A/SLMR No. 430)

Activity violated Sec. 19(a)(1) by posting a letter from Activity's Commanding Officer to the Union's President on bulletin boards and, additionally, by requiring that employees read and initial the posted letter. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)

A statement made by a representative of the Respondent that an employee's attempt to return to duty following an absence on Leave Without Pay (LWOP) necessitated by medical problems would only be complicated should she seek union representation constituted an improper attempt by the Respondent to encourage the employee to by-pass her exclusive representative and deal directly with the Respondent with regard to the resolution of her difficulties. (VA Cntr., Bath, N.Y., A/SLMR No. 433)
A/S found Activity violated Sec. 19(a)(1) by unilaterally terminating negotiation session with union based on an alleged impasse with respect to one subject of bargaining and refusing to meet and confer on other subjects of bargaining. (Vandenberg AFB, 4392d Aerospace Support Group, Cal., A/SLMR No. 435)

A/S agrees with ALJ finding that Respondent-Activity violated the Order when its supervisor threatened additional duties and announced a schedule change to a steward in such a manner that it was intended to be perceived as being in retaliation for the steward's engagement in protected activity. (AAFES, Vandenberg AFB, Cal., A/SLMR No. 437)

Tearing of marked agreement insert by supervisor did not constitute violation of Sec. 19(a)(1) based on ALJ's credibility resolution and established print shop custom of destroying marked documents. (Naval Ordnance Sta., Louisville, Ky., A/SLMR No. 440)

A memoranda issued to New York National Guard employees regarding the use of military forms of address constituted a unilateral change in the working conditions of certain unit employees, as Respondent had tolerated extensive deviations from the requirements of a National Guard Bureau regulation which was interpreted as requiring that the employees use military forms of address while performing in their civilian job status. The A/S agreed with the ALJ's finding that the applicable regulation gave the Activity certain prerogatives, that the Activity was obliged to meet and confer with the Complainant within the boundaries established by the regulation, and its unilateral conduct in changing a working condition which fell within the purview of the applicable regulation was, in effect, an improper by-pass of the exclusive representative. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)
Activity's unilateral change of working conditions of the President of the exclusive representative violated Sec. 19(a)(1) because it evidenced to the employees that the Activity can act with respect to negotiated terms and conditions without regard to its obligation thereunder to consult with the exclusive representative before instituting such changes. (Air Force, Kingsley Field, Klamath Falls, Ore., A/SLMR No. 443)

A/S adopted ALJ's finding that Complainant failed to meet burden of proof that Activity violated Sec. 19(a)(1) by supervisor's alleged confrontation of employee regarding subject matter of pending grievance while employee was without representation. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Based on the ALJ's credibility resolution, the A/S found that Activity did not violate Sec. 19(a)(1) by supervisor's alleged improper statement to employee at meeting between the two. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Based on the ALJ's credibility resolutions, the A/S found that Activity did not violate Sec. 19(a)(1) by alleged statements of supervisor and senior employee to employee to the effect that the employee would receive poor evaluation if she voluntarily furloughed herself other than during the prescribed furlough period and would continue to receive poor evaluation if she went to her exclusive representative and grieved. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Where the record did not establish that the Respondent's penalty accorded the Complainant for damaging Government equipment was imposed based on his union activities, the A/S agreed with the ALJ's finding that the Activity did not violate Sec. 19(a)(1). (Portsmouth Naval Shipyard, A/SLMR No. 445)
Contrary to ALJ's finding that a statement made to employee by supervisor that so long as employee was active in union, he would never be promoted, was not violative of the Order because in the ALJ's view, the motivation for such statement was based on supervisor's belief that the employee's union business took up so much time that he was prevented from fully developing his potential, the A/S stated that had this been properly alleged in complaint as an independent violation of Sec. 19(a)(1), he would have found a violation of that Section. He noted that to do otherwise would result in improperly penalizing employees who, as union representatives, are exercising rights assured under the Order and contained in negotiated agreements. (Army Tank Automotive Com., Warren, Mich., A/SLMR No. 447)

A/S adopted ALJ's conclusion that arrests made by the Respondent Activity's guards of officials of the Complainant were made purely on the guard's initiative because of alleged interference by these officials with respect to an earlier arrest by the guards. In addition, the A/S agreed with the ALJ's determination that the union officials were not fulfilling an obligation of Sec. 10(e) by attempting to represent employees who were being arrested for a crime unrelated to their employment and, therefore, the union officials were not exercising rights assured by the Order. (VA, Wadsworth Hosp. Cntr., Los Angeles, Cal., A/SLMR No. 449)

A/S dismissed complaint where ALJ found that any connection between the filing of a grievance and the separation of a probationary employee who participated in the filing of the grievance, was mere coincidence. (Biloxi VA Cntr., Miss., A/SLMR No. 450)
A/S adopts ALJ's finding that Sec. 7(d)(1) does not confer any rights enforceable under Sec. 19; that where employees subject to agency grievance procedure, in absence of anti-union motivation, agency's improper failure to apply provisions of its procedure cannot be considered violative of Order; and that where no labor organization has been accorded exclusive recognition, Sec. 10(e) is inapplicable. (Naval Air Sta. (North Island), San Diego, Cal., A/SLMR No. 452)

Where negotiated grievance procedure provided that grievances relating to satisfactory rating would be processed exclusively through medium of an ad hoc board of review or statutory performance board and there was an absence of evidence of a contrary intent by the parties, the A/S found, in agreement with the ALJ, that Respondent's refusal to accede to the Complainant's request to submit a grievance pertaining to a satisfactory performance rating to arbitration did not constitute violation of Sec. 19(a)(1) of the Order. (Army Adjutant General, Publication Cntr., A/SLMR No. 455)

Agency's conducting of meetings or interviews with unit employees in which their terms and conditions of employment were discussed, while refusing the request of the exclusive representative of these employees to participate in such discussions, ran counter to the obligation owed to an exclusive representative as spokesman of the employees it represents, is inconsistent with Sec. 1(a) policy concerning an Agency head's obligation to assure that employee rights are protected, undermines status of exclusive representative selected by the employees of Respondent Activity and interferes, restrains and coerces unit employees in violation of Sec. 19(a)(1) of the Order. (NASA, A/SLMR No. 457)
Activity violated Sec. 19(a)(1) of EO by statements made by its supervisor to employee who indicated a desire to consult with her bargaining representative concerning a dispute between supervisor and employee. As found by ALJ, the supervisor's statement to the employee indicated that she would have to deal directly with him, and any contact by the bargaining agent would be futile. Such conduct constituted an attempt to cause employee to relinquish her right to consult with her exclusive representative in violation of Sec. 19(a)(1). (Nat'l. Oceanic and Atmospheric Adm., Nat'l. Weather Service, A/SLMR No. 464)

A/S, in agreement with ALJ, rejected Activity's contention that firing a union steward for advocating changes in working conditions was justified because this created dissension among employees, and found that the Activity improperly interfered with the steward's rights under the Order. (Miramar Naval Air Sta., Commissary Store, San Diego, Cal., A/SLMR No. 472)

A/S found, in accord with Los Angeles Air Route Traffic Control Center, Federal Aviation Administration, A/SLMR No. 283, that the use of Agency bulletin boards and/or Agency facilities for unit employee meetings by a bargaining representative is a privilege, not a right, and may be subject to reasonable conditions. However, once granted, the Agency may not unilaterally establish further conditions upon the exercise of such privilege since such unilateral action has a restraining influence and coercive effect on the rights of unit employees in violation of Sec. 19(a)(1). (IRS, Office of the Regional Commissioner, Western Region, A/SLMR No. 473)

Supervisor's interrogation of employee with respect to her alleged role in the preparation and distribution of a union leaflet constituted improper interference since it was an inquiry by management into the employee's union activities. (OEO, Region V., Chicago, Ill., A/SLMR No. 477)
Activity violated Sec. 19(a)(1) of EO by statement of supervisor to Local Union President implying that she could be penalized if she performed certain representational duties during official work time, even though the use of such time was permitted by the negotiated agreement. (Base Procurement Office, Vandenberg AFB, Cal., A/SLMR No. 485)

A/S, adopting findings of ALJ, concluded that interviews conducted by Respondent's grievance examiner were "formal discussions" within the meaning of Sec. 10(e) of the Order; that Respondent is chargeable for any unfair labor practices engaged in while acting in furtherance of its delegated functions in processing grievances on behalf of the Activity; that the subject matter of the inquiry concerned a grievance, personnel policy or practice within the meaning of Sec. 10(e) of the Order; that the record failed to show that Complainant had waived any of its rights to be represented at such "formal discussion"; and, that Respondent, by its refusal to permit and failure to afford Complainant opportunity to be represented during interview of unit employees concerning the processing of a grievance, violated Sec. 19(a)(1).

Further, Respondent's denial of an employee's request for union representation made during the formal discussion herein constituted an independent violation of Sec. 19(a)(1). (U.S. Army Civilian Appellate Review Agency, Sacramento, Cal., A/SLMR No. 488)

Activity violated Sec. 19(a)(1) of EO by threatening to remove employee from job if he persisted in holding union office or in participating in the management of the union where employee was not a supervisor. (AAFES, Redstone Arsenal Exchange, Ala., A/SLMR No. 491)
Agency not obligated to accord representative status to an employee designated by Complainant who was not a representative of the exclusive representative. (380th Combat Support Group, Plattsburgh AFB, N.Y., A/SLMR No. 493)

Discussion of an employee's appraisal does not constitute a formal discussion within meaning of Sec. 10(e) where no wider ramifications beyond employee involved and no grievance had been lodged at this stage of discussion. (380th Combat Support Group, Plattsburgh AFB, N.Y., A/SLMR No. 493)

The A/S found, in agreement with the ALJ, that the implementation of a grievance recommendation is an integral part of the grievance procedure, and that an employee is entitled to representation at any meeting called for that purpose. (IRS, Pittsburgh Dist., A/SLMR No. 498)

Instituting a change in working conditions not to the liking of the Complainant did not violate the Order where the Activity solicited and received input on the proposed change from the Complainant and solicited additional comments prior to final announcement of the change, and where there was no evidence that the Complainant was intentionally misled or that the Order imposed the obligation that parties must agree on the terms of the change. (HEW, SSA, Western Program Cntr., San Francisco, Cal., A/SLMR No. 501)

A/S, adopting findings of ALJ, found that conduct of Respondent in discharging members of local union engaged in a work stoppage, while merely warning others who also engaged in the work stoppage but were non-members of the local union violated Sec. 19(a)(1). A/S noted in particular that his action was not,
in any way, a condonation of the action of employees engaged in a work stoppage. Such activity is not only unprotected under the Order, but is also unlawful, and employees engaging in such conduct are not protected by the Order from discipline by their Agency up to and including discharge. Further, an Agency or Activity may assess different degrees of discipline based on a distinction in conduct or responsibility for the improper conduct. However, an Agency or Activity may not predicate its differentiation of discipline upon conduct which is protected under the Order, i.e., membership in a labor organization. (TVA, A/SLMR No. 509)

Activity violated Sec. 19(a)(1) by failure to supply and/or withholding information requested by exclusive representative. A/S found such conduct inherently interfered with, restrained and coerced unit employees in their right to have their exclusive representative act for and represent their interests in matters concerning grievances, personnel policies and practices as assured by Sec. 10(e) of the Order. (Dallas Naval Air Sta., Dallas, Tex., A/SLMR No. 510)

Respondent Activity fulfilled obligation to meet and confer concerning change in work reporting site where (1) "Memorandum of Understanding" concerning reporting station was only a recording of an employment practice and not a negotiated agreement within the meaning of the Order, and (2) the Respondent discussed the policy change with an open mind with the Complainant labor organization prior to the change. (Dugway Proving Ground, Army, Dugway, Utah, A/SLMR No. 511)
Proposals from Activity official at meeting with employee involved and her representative that, in connection with her requested training, she give up one-third of allotted time for authorized labor-management business under parties' negotiated Memorandum of Understanding constituted improper interference with employee's rights in violation of Sec. 19(a)(1). Additionally, a written memorandum of that official violated Sec. 19(a)(1) in that it indicated that her training opportunities would be limited so long as she continued to perform her authorized union representational duties. (Picatinny Arsenal, Dover, N.J., A/SLMR No. 512)

The Activity violated the EO by its unilateral decision to revoke dues authorization for three employees who had been members of a unit represented exclusively by the Complainant prior to being administratively transferred to a new organizational entity of the Agency, as A/S found that the three employees were performing the same jobs they had previously performed, in the same work areas, under the same supervision, and at essentially the same rates of pay and schedule of benefits as before their transfer, and that they remained within the unit represented exclusively by the Complainant. Respondent's action, therefore, constituted improper withdrawal of recognition. (AAFES, MacDill AFB Exchange, Fla., A/SLMR No. 514)

A/S found, in agreement with ALJ, that evidence established that Respondent had permitted Complainant employee's activity as a union steward to play a role in its determination of her fitness and/or selection for promotion, or re-promotion, and, further, that but for Complainant's activity as a union steward, she would have been selected for repromotion. (Army Infantry Cntr., Civilian Personnel Office, Ft. Benning, Ga., A/SLMR No. 515)
A/S rejected statement by ALJ to the effect that agency representatives are obliged to give eligible employees warning or notice with respect to obligations imposed by specific jobs - where time away from the job is occasioned by protected union activity - and to allow the affected employees to make an election regarding the utilization of rights afforded by Sec. 1(a) of the Order. In A/S's view, where a right to use official time for the conduct of union representational duties has been granted by agreement, any warning or notice, as suggested by ALJ, with respect to obligations imposed by a specific job could, under certain circumstances, itself be violative of the Order. (Army Infantry Cntr., Civilian Personnel Office, Ft. Benning, Ga., A/SLMR No. 515)

Activity violated Sec. 19(a)(1) by interrogating an employee who was president of the union, regarding his plans and intentions to run again for president of the local union in the future. (IRS, Wilmington, Del. Dist., A/SLMR No. 516)

Activity violated Sec. 19(a)(1) when supervisor suggested to union president that he give some consideration to not running for president again. (IRS, Wilmington, Del. Dist., A/SLMR No. 516)

Activity violated Sec. 19(a)(1) when supervisor inserted a remark concerning an employee's union activities in a performance evaluation worksheet. (IRS, Wilmington, Del. Dist., A/SLMR No. 516)

A/S found that the Respondent's failure and refusal to comply with an arbitration award violated Sec. 19(a)(1). (FAA, A/SLMR No. 517)

A/S found that the Respondent's failure to abide by an arbitration award issued under a negotiated grievance procedure to which no exceptions were filed with the FLRC, violated Sec. 19(a)(1). See, Department of the Army, Aberdeen Proving Ground, A/SLMR No. 412, FLRC No. 74A-46. (Army, Aberdeen Proving Ground, A/SLMR No. 518)
Interference (Cont'd)

Participation in decertification activity found not violative where employees involved were found to be team leaders and not supervisors. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

A supervisor's direct communication with employees regarding the positions of the parties as to the status of negotiations found violative. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

Alleged failure by Respondent's supervisors to prevent use of internal mail system for distribution of DR petitions and employees' duty time decertification found not violative as Complainant failed to meet burden of proof. However, Respondent did violate the Order by not taking adequate measures to disassociate itself from the implication that it was lending support to decertification activity by use of its mail services. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

Alleged participation in decertification activity and statements made allegedly to discredit the union president not violative where employee involved was found not to be a management official. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

Complainant failed to meet its burden of proof that alleged low promotional appraisal and arbitrary scheduling of a job related exam by supervisor with respect to union steward were based on union activities. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

Participation in decertification effort found violative where employee involved was found to be supervisor within meaning of 2(c). (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

Supervisor's discriminatory reporting requirement for union steward found violative of Order. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)
Supervisor's reading to employees of confidential EEO memorandum filed by union found violative of Order. (VA Data Processing Cntr., Austin, Tex., A/SLMR No. 523)

A/S found that statements made by Respondent's Director to Complainant Union's President, contrary to allegation of Complainant, did not constitute interference, restraint, or coercion within the meaning of Sec. 19(a)(1). (Picatinny Arsenal, Dover, N.J., A/SLMR No. 532)

A/S found that Respondent did not violate Sec. 19(a)(1) distinguishing NASA, Washington, D.C., A/SLMR No. 457, noting that in instant case there was no showing that exclusive representative was by passed by virtue of higher level management representative dealing directly with unit employees concerning their terms and conditions of employment. (FAA, Airways Facility Sector, San Diego, Cal., A/SLMR No. 533)

A/S, in agreement with ALJ, found that, in the absence of any evidence of anti-union motivation, the Complainant failed to establish that Respondent violated Sec. 19(a)(2) in refusing to grant the type of passes previously issued to Complainant's representatives, thereby making their entry into the Shipyard on the Complainant's business more difficult. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 415)
A/S, in agreement with the ALJ, found that even if the Respondent had, without justification, insisted that the Complainant state grievance in writing, such a violation of its unilaterally established grievance procedure, in the absence of evidence of discriminatory motivation or disparity of treatment based on union membership considerations, would not violate Sec. 19(a)(2) of the Order. (Naval Air Sta., (North Island), San Diego, Cal., A/SLMR No. 422)

Respondent did not violate Sec. 19(a)(2) by withdrawing its agreement with respect to administrative leave and check-off after the parties reached an impasse during negotiations where evidence established that Respondent bargained in good faith throughout negotiations and there was no evidence that Respondent had engaged in any discriminatory conduct against employees which was designed to discourage membership in a labor organization. (Regional Office, Small Business Adm., Seattle, Wash., A/SLMR No. 423)

Allegation that the Respondent's refusal to allow an employee to return to work and her subsequent termination were based on anti-union considerations or for engaging in conduct protected under the Order dismissed for insufficient evidence. (VA Cntr., Bath, N.Y., A/SLMR No. 433)

A/S rejects ALJ's finding that a schedule change involving a union steward was violative of Sec. 19(a)(2) as A/S concluded that evidence did not establish that schedule change was discriminatory in nature or intended to discourage employee in exercise of her union duties. Also, A/S rejected ALJ's finding of Sec. 19(a)(2) violation related to the assignment of additional work duties where there was no evidence that the alleged discriminatee actually was assigned those duties. (AAFES, Vandenberg AFB, Cal., A/SLMR No. 437)

A/S adopted ALJ's finding that, under the circumstances, which established economic motivation, Activity did not violate Sec. 19(a)(2) by issuing directive reducing hours of employees during an organizing campaign. (Air Force, Webb AFB, Tex., A/SLMR No. 439)
A/S adopted ALJ's finding that Complainant failed to meet burden of proof that Activity violated Sec. 19(a)(2) by supervisor's alleged confrontation of employee regarding subject matter of pending grievance while employee was without representation. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Based on the ALJ's credibility resolution, the A/S found that Activity did not violate Sec. 19(a)(2) by supervisor's alleged improper statement to employee at meeting between the two. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Based on the ALJ's credibility resolutions, the A/S found that Activity did not violate Sec. 19(a)(2) by alleged statements of supervisor and senior employee to employee to the effect that the employee would receive poor evaluation if she voluntarily furloughed herself other than during the prescribed furlough period and would continue to receive poor evaluations if she went to her exclusive representative and grieved. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

A/S adopted the ALJ's finding that Complainant failed to meet burden of proof that Respondent's actions were prompted by Complainant's union membership or activities. (Portsmouth Naval Shipyard, A/SLMR No. 445)

Where evidence established that employee's temporary assignment was in accord with established policy and was based on economic considerations, and there was an absence of any evidence that the employee's assignment was based on either the employee's having filed grievances and sought union representation, or his having filed a pre-complaint charge, the A/S, noting the absence of exceptions, adopted the ALJ's recommended dismissal of the complaint alleging violation of Sec. 19(a)(2) and (4) of the Order. (Naval Air Rework Facility, Jacksonville, Fla., A/SLMR No. 446)

A/S adopted ALJ's finding that the issue of job content could properly have been raised under Respondent's Job Evaluation Complaint and Appeals Procedure, and therefore, Sec. 19(d) constituted a bar to the proceeding. (Army Tank Automotive Com., Warren, Mich., A/SLMR No. 447)
A/S found no evidence of discrimination with respect to any condition of employment where union representatives were not exercising any rights assured by the Order when they attempted to represent employees who were being arrested for crimes unrelated to their employment. (VA, Wadsworth Hosp. Cntr., Los Angeles, Cal., A/SLMR No. 449)

A/S dismissed complaint where ALJ found that any connection between the filing of a grievance and the separation of a probationary employee who participated in the filing of the grievance was mere coincidence. (Biloxi VA Cntr., Miss., A/SLMR No. 450)

A/S, in agreement with the ALJ, rejected Activity's contention that firing a union steward for advocating changes in working conditions was justified because this created dissension among employees, and found that the firing was discriminatory based on union membership considerations. (Miramar Naval Air St., Commissary Store, San Diego, Cal., A/SLMR No. 472)

Although violating Sec. 19(a)(1) of EO, Agency did not also violate Sec. 19(a)(2) by conduct allegedly discouraging membership in a labor organization by discriminating in regard to the conditions of an employee's employment. (AAFES, Redstone Arsenal Exchange, Redstone Arsenal, Ala., A/SLMR No. 491)

A/S, adopting findings of ALJ, found that conduct of Respondent in discharging members of local union who engaged in a work stoppage, while merely warning others who also engaged in the work stoppage but were non-members of the local union, violated Sec. 19(a)(2) of the Order. A/S noted in particular that his action was not, in any way, a condonation of the action of employees engaging in a work stoppage. Such activity is not only unprotected under the Order, but is also unlawful, and employees engaging in such conduct are not protected by the Order from discipline by their Agency up to and including discharge. Further, an Agency or Activity may assess different degrees of discipline based on a distinction in conduct or responsibility for the improper conduct. However, an Agency or Activity may not predicate its differentiation of discipline upon conduct which is protected under the Order, i.e., membership in a labor organization. (TVA, A/SLMR No. 509)
A/S adopted ALJ's finding that in absence of evidence that the Respondent's "action was based on union membership, or other protected activity," there was insufficient evidence to find violation of Sec. 19(a)(2) of the Order. (Dallas Naval Air Sta., Dallas, Tex., A/SLMR No. 510)

A/S found, in agreement with the ALJ, that the evidence established that Respondent had permitted Complainant employee's activity as a union steward to play a role in its determination of her fitness and/or selection for promotion, or repromotion, and, further, that but for Complainant's activity as a union steward, she would have been selected for repromotion. (Army Infantry Ctr., Civilian Personnel Office, Ft. Benning, Ga., A/SLMR No. 515)

Activity did not violate Sec. 19(a)(2) where evidence failed to establish that failure to promote local union president was grounded on discriminatory considerations. (IRS, Wilmington, Del. Dist., A/SLMR No. 516)

Alleged participation in decertification activity and statements allegedly made to discredit union steward not violative where employee was found not to be a management official. (VA Data Processing Ctr., Austin, Tex., A/SLMR No. 523)

Participation by supervisor in decertification activity and failure of Respondent to take affirmative action to disassociate itself from implication that it was lending support to decertification activity by use of its internal mail system, while violative of Sec. 19(a)(1), found not violative of Sec. 19(a)(2) where no discrimination regarding a condition of employment was shown. (VA Data Processing Ctr., Austin, Tex., A/SLMR No. 523)

A/S, contrary to ALJ, found discriminatory reporting requirement placed on union steward by her supervisor not violation of Sec. 19(a)(2) of Order where no evidence adduced that she ever had to comply with this requirement. (VA Data Processing Ctr., Austin, Tex., A/SLMR No. 523)

A/S adopted ALJ's finding that there was no evidence that the Respondent denied a promotion to one of its employees because of his union activities. See A/SLMR No. 425. (Puget Sound Naval Shipyards, Bremerton, Wash., A/SLMR No. 525)
Section 19(a)(3)

Where it was alleged that Respondent hospital violated Order by granting certain nurses administrative leave to attend a professional workshop conference sponsored by a professional association which is also a labor organization, and evidence established that subject matter of the workshop was strictly professional in nature, and Respondent had not consulted or dealt with the professional association in derogation of its collective bargaining obligations to the Complainant, the A/S agreed with the ALJ that the Respondent did not violate the EO. (VA Hosp., Salisbury, N.C., A/SLMR No. 424)

Section 19(a)(4)

Based on the ALJ's credibility resolutions, the A/S found that Activity did not violate Sec. 19(a)(4) by supervisor's alleged improper statement to employee at meeting between the two. (IRS, Memphis Service Ctr., Tenn., A/SLMR No. 444)

Based on the ALJ's credibility resolution, the A/S found that Activity did not violate Sec. 19(a)(4) by alleged statements of supervisor and senior employee to employee to the effect that the employee would receive poor evaluation if she voluntarily furloughed herself other than during the prescribed furlough period and would continue to receive poor evaluations if she went to her exclusive representative and grieved. (IRS, Memphis Service Ctr., Tenn., A/SLMR No. 444)

Where evidence established that employee's temporary assignment was in accord with established policy and based solely on economic considerations, the A/S adopted the ALJ's finding that it was unnecessary to determine whether in processing an agency grievance the employee was engaged in activity protected by the Order, or whether the protection afforded by Sec. 19(a)(4) extended either to giving testimony during the processing of a grievance or the filing of a pre-complaint charge under the Order and dismissed the Sec. 19(a)(4) complaint. (Naval Air Rework Facility, Jacksonville, Fla., A/SLMR No. 446)
Where evidence established that employee's temporary assignment was in accord with established policy and was based on economic consideration, and there was an absence of any evidence that the employee's assignment was based on either the employee's having filed grievances and sought union representation, or his having filed a pre-complaint charge, the A/S, noting the absence of exceptions, adopted the ALJ's recommended dismissal of the complaint alleging violation of Sec. 19(a)(4) of the Order. (Naval Air Rework Facility, Jacksonville, Fla., A/SLMR No. 446)

Activity did not violate the Order where a Branch Chief, who was charged with a previous unfair labor practice by the Complainant, did not approve or disapprove requests for training from the Complainant's President, but forwarded the requests to supervisors who subsequently approved them without any unusual delay. (Picatinny Arsenal, Dover, N.J., A/SLMR No. 532)

A/S adopted ALJ's finding that proceedings before Agency's Facility Review Board did not constitute a formal discussion within the meaning of Sec. 10(e) and, therefore, the Agency's denial of representation was not violative of the Order. (FAA, Cleveland ARTC Cntr., Oberlin, Ohio, A/SLMR No. 430)

A/S, in agreement with the ALJ, dismissed allegation of violation of Sec. 19(a)(5) concerning the alleged failure of Respondent to afford Complainant opportunity to be present at three meetings of employees to discuss implementation of a mandatory 48-hour workweek. ALJ found unnecessary a determination of whether the meetings were "formal discussions" within meaning of Sec. 10(e), since Complainant was afforded opportunity to be present, and was, in fact, present at one meeting in the person of Complainant's Vice President. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)
Respondent Activity fulfilled obligation to meet and confer concerning change in work reporting site where (1) "Memorandum of Understanding" concerning reporting station was only a recording of an employment practice and not a negotiated agreement within the meaning of the Order, and (2) the Respondent discussed the policy change with an open mind with the Complainant-labor organization prior to the change. (Dugway Proving Ground, Army, Dugway, Utah, A/SLMR No. 511)

The Activity violated the EO by its unilateral decision to revoke dues authorization for three employees who had been members of a unit represented exclusively by the Complainant prior to being administratively transferred to a new organizational entity of the Agency, as the A/S found that the three employees were performing the same jobs they had previously performed, in the same work areas, under the same supervision, and at essentially the same rates of pay and schedule of benefits as before their transfer, and thus remained within the unit represented exclusively by the Complainant. Respondent's action, therefore, constituted improper withdrawal of recognition. (AAFES, MacDill AFB Exchange, MacDill AFB, Fla., A/SLMR No. 514)

*Section 19(a)(6)*

A/S found that Activity violated Sec. 19(a)(6) when it unilaterally terminated meeting with union, based on an alleged impasse with respect to one subject of bargaining and refused to meet and confer on other subjects of bargaining. (Vandenberg AFB, 4392d Aerospace Support Group, Cal., A/SLMR No. 435)

Respondent did not violate Sec. 19(a)(6) by refusing to consult and confer with the Complainant, as the Complainant was not the majority representative of the Respondent's employees, and, as a result, no obligation was imposed by Sec. 19(a)(6) upon the Respondent to consult and confer. (HUD, Area Office, Detroit, Mich., A/SLMR No. 414)
Respondent's attempt to dictate the selection of the Complainant's Chief Representative constituted an attempt to interfere improperly in the internal affairs of the Complainant and an improper refusal to meet and confer with an appropriate representative of the Complainant in violation of Sec. 19(a)(6) of the EO. (IRS, Omaha District Office, A/SLMR No. 417)

Activity did not violate Sec. 19(a)(6) by posting the minutes of a labor-management meeting where the procedure for posting had been established through mutual agreement and past practice. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)

A/S found that Activity violated Sec. 19(a)(6) when it unilaterally terminated meeting with union, based on an alleged impasse with respect to one subject of bargaining and refused to meet and confer on other subjects of bargaining. (Vandenberg AFB, 4392d Aerospace Support Group, Cal., A/SLMR No. 435)

A/S agreed with the ALJ's finding that no ULP occurred based on allegation that Respondent refused to cooperate in attempts to settle the complaint informally, as a 19(a)(6) charge based on an alleged violation of Sec. 203 of the A/S's Regs. is inappropriate for resolution in an unfair labor practice proceeding. Accord, A/SLMR Nos. 211 and 352. (AAFES, Vandenberg AFB, Cal., A/SLMR No. 437)

A/S, in finding that the Respondent had fulfilled its obligation to meet and confer with Complainants, distinguished National Labor Relations Board, A/SLMR No. 246, noting that in instant case Complainants at no time specifically indicated to Respondent that there was insufficient time to review the draft Average Grade Control Plan and to formulate meaningful comments, or requested additional time in which to do so; nor did Complainants seek to meet and discuss the matter further with Respondent, or offer suggestions or comments to Respondent concerning the Plan subsequent to the notification meeting. (FAA, Nat'l. Aviation Facilities, Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)
Activity met its obligations when it negotiated with respect to the issue of uniform wearing by civilian technicians for a year, announced on May 22, 1972, its intention to implement a longstanding regulation with respect to the issue, continued the negotiations, and notified the employees on August 5, 1972, of its intent to implement. (N.Y. Army and Air Nat'l Guard, Albany, N.Y., A/SLMR No. 441)

A/S found no evidence that Respondent refused to meet and confer regarding the arrest of two unit employees for alleged bookmaking, or was ever asked to do so. (VA, Wadsworth Hosp. Cntr., Los Angeles, Cal., A/SLMR No. 449)

Activity's alleged instituting a reduction-in-force (RIF) without prior notice or consultation, not violative of Sec. 19(a)(6), among other things, because (1) Activity played no part in decision to have RIF; (2) when notified of the RIF, Activity's director gave his office instruction that union should be notified; and (3) there is no evidence that Activity ever refused to meet and confer with union concerning RIF or any other subject. (Iowa State Agric. Stabilization and Conservation Service Office, Agric., A/SLMR No. 453)

Where Complainant union's rights as exclusive representative are based on exclusive recognition accorded it by Activity, Respondent Agency was not obligated to meet and confer with Complainant pursuant to Sec. 11(a) of the Order. Therefore, since Respondent Agency was not a party to a bargaining relationship, it did not violate Sec. 19(a)(6) of the Order. (NASA, A/SLMR No. 457)

Where evidence established that (1) no management official of the Activity exercised any supervision or control over Agency representative who conducted meetings with unit employees, and (2) no evidence that Activity refused to meet and confer with union concerning any matters involving personnel policies or practices under its control or direction, Activity did not violate Sec. 19(a)(6) of the Order. (NASA, A/SLMR No. 457)
Failure to Meet and Confer Generally (Cont'd)

The FLRC, in FLRC No. 73A-64, set aside the A/S's findings in A/SLMR No. 322 and remanded case to A/S for appropriate action based on its finding that Defense Language Institute Reg. was not applicable uniformly to more than one Activity in that it was not directed to a manager or managers of more than one subordinate Activity, providing guidance concerning matters common to employees of these Activities. Accordingly, Defense Language Institute Reg. may not serve as an appropriate limitation on the scope of the negotiations concerning overseas assignments under Sec. 11(a) of the Order pursuant to its holding in United Federation of College Teachers, Local 1460 and U.S. Merchant Marine Academy, FLRC No. 71A-15.

Pursuant to FLRC No. 73A-64, A/S reversed previous findings in A/SLMR No. 322 and issued revised findings. (Air Force Defense Language Institute, English Language Branch, Lackland AFB, Tex., A/SLMR No. 468)

The A/S adopted the ALJ's conclusion that the Order does not oblige an Agency to include an exclusive bargaining representative in its negotiations with a third party, in this case a food concessionaire, as long as the representative's right to meet and confer with regard to any decision which may impact on working conditions is not infringed upon. (Portsmouth Naval Shipyard, A/SLMR No. 508)

Respondent Activity fulfilled obligation to meet and confer concerning change in work reporting site where (1) "Memorandum of Understanding" concerning reporting station was only a recording of an employment practice and not a negotiated agreement within the meaning of the Order, and (2) the Respondent discussed the policy change with an open mind with the Complainant labor organization prior to the change. (Dugway Proving Ground, Army, Dugway, Utah, A/SLMR No. 511)
The A/S found that the Respondent did not violate Sec. 19(a)(6) by failing to meet and confer with the Complainant on its formula for staffing readjustment as the Respondent was not a party to the bargaining relationship herein and thus had no obligation under the Order to meet and confer with the Complainant, citing NASA, Washington, D.C., A/SLMR No. 457. (FAA, Airways Facilities Sector, San Diego, Cal., A/SLMR No. 533)

Activity violated Sec. 19(a)(6) when it failed to meet and confer with the Union as to the procedures management intended to observe in effectuating its decision to reassign employees as a result of a reorganization, and as to the impact of such decision on the employees adversely affected. (Fed. Railroad Adm., A/SLMR No. 418)

A/S, in agreement with ALJ, found that, although Respondent was obliged to meet and confer with Complainants concerning the formulation of and procedures to be utilized in effectuating a plan for the reduction of average grade of employees, and the impact of such plan on unit employers, Respondent did not violate Sec. 19(a)(6) since it fulfilled its obligation in this regard and Complainants failed to avail themselves of this opportunity. (FAA, Nat'l Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)

A/S, in agreement with ALJ, found that Respondent violated Sec. 19(a)(6) by its action in failing to accord Complainant opportunity to be present during certain discussions with an employee which involved, among other things, institution of a departure from the mere review of individual work performance evaluation and entered into matters which had potentially far reaching effects with wider ramifications than
the dispute relative to the employee's individual rating. It was noted that the departure involved institution of a new method of evaluation which admittedly would have to be applied to other employees if they so desired. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)

The Respondent violated the EG by contracting out certain of its auto repair operations without meeting and conferring in good faith on the impact of the contracting out with the exclusive representative. (AAFES, Pacific Exchange System, Hawaii Regional Exchange, A/SLMR No. 451)

Activity's alleged instituting a reduction-in-force (RIF) without prior notice or consultation not violative of Sec. 19(a)(6), among other things, because (1) Activity played no part in decision to have RIF; (2) when notified of the RIF, Activity's director gave his office instruction that union should be notified; and (3) there is no evidence that Activity ever refused to meet and confer with union concerning RIF or any other subject. (Iowa State Agric. Stabilization and Conservation Service Office, Agric., A/SLMR No. 453)

Activity violated Sec. 19(a)(6) when, although not obligated to meet with union on reclassification decision, it instituted the reclassification without affording union meaningful opportunity to meet and confer on impact of such action on adversely affected unit employees. (AAFES, Pacific Exchange Sys., Hawaii Regional Exchange, A/SLMR No. 454)

The FLRC, in FLRC No. 73A-64, set aside A/S's findings in A/SLMR No. 322 and remanded case to A/S for appropriate action based on its finding that Defense Language Institute Reg. was not applicable uniformly to more than one Activity in that it was not directed to a manager or managers of more
Failure to Meet and Confer on Impact or Procedures (Cont'd)

than one subordinate Activity, providing guidance concerning matters common to employees of these Activities. Accordingly, DLI Reg. may not serve as an appropriate limitation on the scope of the negotiations concerning overseas assignments under Sec. 11(a) of the Order pursuant to its holding in United Federation of College Teachers, Local 1460 and U.S. Merchant Marine Academy, FLRC No. 71A-15.

Pursuant to FLRC No. 73A-64, A/S reversed previous findings in A/SLMR No. 322 and issued revised findings. (Air Force Defense Language Institute, English Language Branch, Lackland AFB, Tex., A/SLMR No. 468)

Although there was no obligation on Respondent to meet and confer with Complainant on the directive which changed the recruiting obligations of the unit employees, there was an obligation to meet and confer on the procedures relating to the implementation of such change and on the impact of such policy on adversely affected employees. (Pa. Army Nat'l. Guard, A/SLMR No. 475)

Activity violated Sec. 19(a)(1) and (6) by instituting an employee shift change without affording labor organization a reasonable opportunity to meet and confer on the impact of such action on adversely affected unit employees. (Naval Plant Rep. Office, Baltimore, Md., A/SLMR No. 486)

No violation found where Respondent clearly met its obligation to meet and confer regarding the impact and implementation of a change in tours of duty. (IRS, Fresno Service Cntr., A/SLMR No. 489)

Instituting a change in working conditions not to the liking of the Complainant did not violate the Order where the Activity solicited and received input on the proposed change from the Complainant and solicited additional comments prior to final announcement of the change, and
Failure to Meet and Confer on Impact or Procedures (Cont'd)

where there was no evidence that the Complainant was intentionally misled or that the Order imposed the obligation that parties must agree on the terms of the change. (HEW, SSA, Western Program Cntr., San Francisco, Cal., A/SLMR No. 501)

The A/S adopted the ALJ's conclusion that the Activity entered a meeting held with all the labor organizations represented at the facility, at which it presented its tentative plans with respect to changes in its food service operations, without having come to any final conclusion in that regard and that it was therefore incumbent upon the Complainant to seek bargaining concerning such proposals or to ask for additional time to consider them. (Portsmouth Naval Shipyard, A/SLMR No. 508)

Activity violated Sec. 19(a)(6) by failing to notify the Complainant labor organization prior to implementing a higher agency directive on career appraisals, thereby failing to afford the Complainant an opportunity to meet and confer on the procedures and impact following from the directive. Activity did not violate the Order by failing to meet and confer on the decision concerning career appraisals inasmuch as this decision was issued by higher agency management in order to achieve uniformity of administration of a subject matter common to many activities. (Hq. Army Armament Com., Rock Island, Ill., A/SLMR No. 527)

Refusal to Allow Formal Discussion Representation

Activity did not violate Sec. 19(a)(6) when it denied employee's request for union representation during "Performance Interview" where it was determined that subject interview was not a formal discussion within meaning of Sec. 10(e) of EO. (HEW, SSA, Great Lakes Program Cntr., A/SLMR No. 419)
Activity did not violate Sec. 19(a)(6) when it refused to allow union representation during an alleged "counselling session", as such session did not constitute a "formal" discussion within the meaning of Sec. 10(e) of EO. (IRS, Mid-Atlantic Service Cntr., A/SLMR No. 421)

A/S adopted ALJ's finding that proceedings before Agency's Facility Review Board did not constitute a formal discussion within the meaning of Sec. 10(e) and, therefore, the Agency's denial of representation to the Complainant was not violative of the Order. (FAA, Cleveland ARTC Center, Oberlin, Ohio, A/SLMR No. 430)

A/S, in agreement with ALJ, found that Respondent violated Sec. 19(a)(6) by its action in failing to accord Complainant opportunity to be present during certain discussions with an employee which involved, among other things, institution of a departure from the mere review of individual work performance evaluation and entered into matters which had potentially far-reaching effects with wider ramifications than the dispute relative to the employee's individual rating. It was noted that the departure involved institution of a new method of evaluation which admittedly would have to be applied to other employees if they so desired. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)

A/S found, in agreement with ALJ, that a meeting involving Respondent's supervisor and employee concerning a grievance filed by employee constituted a "formal discussion" within meaning of Sec. 10(e) and Respondent's failure to afford Complainant opportunity to be present constituted a violation of Sec. 19(a)(6). (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)
Refusal to Allow Formal Discussion
Representation (Cont'd)

A/S, in agreement with the ALJ, dismissed allegation of violation of Sec. 19(a)(6) concerning the alleged failure of Respondent to afford Complainant opportunity to be present at three meetings of employees to discuss implementation of a mandatory 48-hour workweek. ALJ found unnecessary a determination of whether the meetings were "formal discussions" within meaning of Sec.10(e), since Complainant was afforded opportunity to be present, and was, in fact, present at one meeting in the person of Complainant's Vice President. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)

Contrary to finding by the ALJ, A/S found that a meeting between an employee and her Division Chief was not a "formal discussion" within the meaning of Sec. 10(e), despite the fact that meeting was with employee's fourth-level supervisor, and meeting was an integral and necessary part in taking formal disciplinary action against the employee. A/S noted that subject matter of the meeting related only to the application of Respondent's regulations to an individual employee and that no grievance had been filed. Therefore, denial to Respondent of opportunity to be present did not violate Sec. 19(a)(6) of EO. (FAA, Nat'l. Aviation Facilities Experimental Cntr., Atlantic City, N.J., A/SLMR No. 438)

The A/S found that the exclusive bargaining representative has a right, under Sec. 10(e) or the Order, to be represented at meetings concerning implementation of grievance recommendation. The A/S noted that when a grievance is the subject of a formal discussion, the exclusive representative is entitled, under Sec. 10(e)
Refusal to Allow Formal Discussion Representation (Cont'd)

of the Order, to be represented, whether or not such grievance might have a general impact on unit employees. (IRS, Pittsburgh Dist., Pa., A/SLMR No. 498)

A/S, in agreement with the ALJ, dismissed 19(a)(1) and (6) complaints based on alleged refusal of complaints examiner, in EEO hearing, to allow Complainant to be represented at hearing in contravention of Sec. 10(e) of Order. Complaint against Respondent Navy dismissed since Navy owed no bargaining obligation to Complainant, and took no part in EEO hearing nor met with any bargaining unit employee about EEO matter. As to Respondent CSC, A/S noted that under "particular circumstances of this case" CSC did not meet definition of "Agency Management" as set forth in Sec. 2(f) of the Order, since CSC was acting under authority of various statutes, Executive Orders and Part 713, Federal Personnel Manual pertaining to EEO matters and, as such, was not subject to jurisdiction or authority of either Respondent Navy or Shipyard. (Navy and U.S. Civil Service Commission, A/SLMR No. 529)

Uncompromising Attitude

A proposal made by the Respondent, which had the effect of leaving the final determination of an issue which was subject to bargaining with the chief official of the Respondent, was a proposal which the Complainant was free to reject and thus, standing alone, it was not violative of the EO. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

Activity did not violate Sec. 19(a)(6) by refusing to bargain separately over an unfair labor practice charge which was concurrently a topic in bargaining negotiations. (Off. of Fed. Highway Projects, Fed. Highway Adm., A/SLMR No. 513)
Uncompromising Attitude

Activity did not violate Sec. 19(a)(6) where, in reducing articles to writing, the Activity did not change or renege on articles already agreed upon by the parties and opposed changes in agreed on terms proposed by the Complainant. (Off. of Fed. Highway Projects, Fed. Highway Adm., A/SLMR No. 513)

Dilatory and Evasive Tactics

Activity had not failed to provide its chief negotiator with sufficient bargaining authority as the proposals made by the Complainant went to the question of the Activity's authority under its Agency's regulations and, therefore, it was not improper for the Activity's negotiators to seek time to evaluate and discuss such broad proposals. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

Activity did not violate Sec. 19(a)(6) where the Respondent's chief spokesman left the bargaining table after the conclusion of negotiations and after appointing another in his stead as chief spokesman. (Off. of Fed. Highway Projects, Fed. Highway Adm., A/SLMR No. 513)

Respondent violated Sec. 19(a)(6) of the EO by interpretation of the Department Personnel Manual to establish a dual level of approval for executed agreements and its returning of the agreement to the parties.

In reaching this conclusion, the A/S found that such an interpretation of the Department Personnel Manual was inconsistent with the intent of Sec. 15 of EO and with the Respondent's obligation under Sec. 11(a) of EO to meet at reasonable times and confer in good faith. (Dept. of Agric. and Agric. Research Service, A/SLMR No. 519)
Dilatory and Evasive Tactics (Cont'd)

Activity did not violate Sec. 19(a)(6) of the EO by its refusal to submit a signed agreement to the Director of Personnel of the Agency within 30 days from the execution of the agreement by the parties, as required by Agency regulations. (Dept. of Agric. and Agric. Research Service, A/SLMR No. 519)

Unilateral Changes in Terms and Conditions of Employment

Activity's refusal to comply with a binding arbitration award would ordinarily be violation of Sec. 19(a)(6) of Order in circumstances where such party has not availed itself of the right to file exceptions to the award under the Rules and Regs. of the FLRC. (Army, Aberdeen Proving Ground, A/SLMR No. 412)

A/S, in agreement with the ALJ, found that the evidence did not support a finding of a violation of Sec. 19(a)(6) since the fact that the Respondent did not change its practice of freely issuing photo passes to the Complainant's representative until after the effective date of the current agreement did not, without more, support a finding of bad faith bargaining during negotiations. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 415)

Respondent did not violate the Order by withdrawing its agreement with respect to administrative leave and check-off after the parties reached an impasse during negotiations where evidence established administrative leave provision conflicted with the FPM and Sec. 12 of the Order; Respondent acted in good faith throughout negotiations and did all it reasonably could be expected to do to reach a final agreement; Respondent reinstated its agreement on check-off; and Respondent continued its efforts to reach an agreement with the Complainant even after the latter terminated negotiations. (Regional Office, Small Business Adm., Seattle, Wash., A/SLMR No. 423)
Unilateral Changes in Terms and Conditions of Employment (Cont'd)

Memoranda issued to New York National Guard employees regarding the use of military forms of address constituted a unilateral change in the working conditions of certain unit employees, as Respondent had tolerated extensive deviations from the requirements of a National Guard Bureau regulation which was interpreted as requiring that the employees use military forms of address while performing in their civilian job status. The A/S agreed with the ALJ's finding that the applicable regulation gave the Activity certain prerogatives, that the Activity was obliged to meet and confer with the Complainant within the boundaries established by the regulation, and its unilateral conduct in changing a working condition which fell within the purview of the applicable regulation which was, in effect, an improper bypass of the exclusive representative. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

Where negotiated grievance procedure provided that grievances relating to satisfactory rating would be processed exclusively through medium of ad hoc board of review or statutory performance board and there was no evidence of a contrary intent by the parties, the A/S found, in agreement with ALJ, that the Respondent's refusal to accede to the Complainant's request to submit a grievance concerning a satisfactory rating to arbitration did not constitute violation of Sec. 19(a)(6) of the Order. (Army Adjutant General Publications Cntr., St. Louis, Mo., A/SLMR No. 455)

A/S adopted ALJ's finding that Respondent was under no obligation to consult and confer prior to instituting a change in a non-negotiable condition of employment, which owes its existence to higher level published policies and regulations that are applicable uniformly to more than one Activity. The A/S noted that the evidence did not establish
Unilateral Changes in Terms and Conditions of Employment (Cont'd)

that the application of the Regulation was inconsistent with any of the provisions of the current negotiated agreement. (Army Adjutant General Publications Cntr., St. Louis, Mo., A/SLMR No. 465)

A/S found in accord with Los Angeles Air Route Traffic Control Center, Federal Aviation Administration, A/SLMR No. 283, that the use of Agency bulletin boards and/or Agency facilities for meetings by a bargaining representative is a privilege, not a right, and may be subject to reasonable conditions. However, such privilege, once granted, constitutes a term and condition of employment and may not thereafter be unilaterally conditioned by the Agency. Such action by the Agency is a unilateral change of working conditions in violation of Sec. 19(a)(6). (IRS, Office of the Regional Commissioner, Western Region, A/SLMR No. 473)

Respondent Activity fulfilled obligation to meet and confer concerning change in work reporting site where (1) "Memorandum of Understanding" concerning reporting station was only a recording of an employment practice and not a negotiated agreement within the meaning of the Order; and (2) the Respondent discussed the policy change with an open mind with the Complainant labor organization prior to the change. (Dugway Proving Ground, Army, Dugway, Utah, A/SLMR No. 511)

A/S, in finding a violation of Sec. 19(a)(6), found that an arbitration award established a new term and condition of employment for unit employees, which required both parties to meet and confer if either desired a modification. The fact that the most recent negotiated agreement contained no specific reference to the above-noted term and condition of employment
Unilateral Changes in Terms and Conditions of Employment (Cont'd)

was insufficient to establish that the Complainant waived the existing term and condition of employment as a result of the execution of the agreement. (FAA, A/SLMR No. 517)

A/S found that the Respondent's failure to abide by an arbitration award issued under a negotiated grievance procedure to which no exceptions were filed with the FLRC violated Sec. 19(a)(6). See, Department of the Army, Aberdeen Proving Ground, A/SLMR No. 412, FLRC No. 74A-46. (Army, Aberdeen Proving Ground, A/SLMR No. 518)

The evidence failed to establish that the Activity violated Sec. 19(a)(6) of the Order by contracting out work without notifying the exclusive representative in accordance with the negotiated agreement, where it had not been done so in the past and the exclusive representative had not complained; where employees of the Activity had not previously been assigned a single work order of such magnitude and where such employees were performing their regular work on a full-time basis; and where there was insufficient evidence to establish that Respondent's interpretation of the negotiated agreement was in bad faith and clearly constituted a unilateral revision of the agreement. (GSA, Region 5, Public Buildings Service, Chicago Field Offices, A/SLMR No. 528)

Bypassing Exclusive Representative

Activity did not violate Sec. 19(a)(6) by posting the minutes of a labor-management meeting where the procedure for posting had been established through mutual agreement and past practice. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)
Activity violated Sec. 19(a)(6) by posting a letter from Activity's Commanding Officer to the Union's President and, additionally, by requiring that employees read and initial the posted letter. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)

The Respondent failed to fulfill its obligation to meet and confer in good faith when it established unilateral criteria for the discussion of exceptions to the Agency's uniform wearing regulation which went beyond the limits inherent in the regulation. The Respondent could ultimately refuse to accede to the Complainant's position on exceptions to the uniform requirement and the criteria therefor, but it could not limit unilaterally the discussion to its own criteria for exceptions. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

A memoranda issued to New York National Guard employees regarding the use of military forms of address constituted a unilateral change in the working conditions of certain unit employees, as Respondent had tolerated extensive deviations from the requirements of a National Guard Bureau regulation which was interpreted as requiring that the employees use military forms of address while performing in their civilian job status. The A/S agreed with the ALJ's finding that the applicable regulation gave the Activity certain prerogatives, that the Activity was obliged to meet and confer with the Complainant within the boundaries established by the regulation, and its unilateral conduct in changing a working condition which fell within the purview of the applicable regulation was, in effect, a by-pass of the exclusive representative. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)
A/S adopted ALJ's finding that Complainant failed to meet burden of proof that Activity violated Sec. 19(a)(6) by supervisor's alleged confrontation of employee regarding subject matter of pending grievance while employee was without representation. (IRS, Memphis Service Cntr., Tenn., A/SLMR No. 444)

Respondent's failure to notify exclusive representative of interview meetings between supervisors and employees concerning grievances found by A/S to be contrary to requirements of Sec. 10(e) and therefore violative of Sec. 19(a)(6). (IRS, SE Service Cntr., Chamblee, Ga., A/SLMR No. 448)

A/S found no evidence that Respondent refused to meet and confer regarding the arrest of two unit employees for alleged bookmaking, or was ever asked to do so. (VA, Wadsworth Hosp. Cntr., Los Angeles, Cal., A/SLMR No. 449)

Where Complainant union's rights as exclusive representative are based on exclusive recognition accorded it by Activity, Respondent Agency was not obligated to meet and confer with Complainant pursuant to Sec. 11(a) of the Order. Therefore, since Respondent Agency was not a party to a bargaining relationship, it did not violate Sec. 19(a)(6) of the Order. (NASA, A/SLMR No. 457)

Where evidence established that (1) no management official of the Activity exercised any supervision or control over Agency representative who conducted meetings with unit employees and (2) no evidence that Activity refused to meet and confer with union concerning any matters involving personnel policies or practices under its control or discretion, Activity did not violate Sec. 19(a)(6) of the Order. (NASA, A/SLMR No. 457)

A supervisor's direct communication to employees regarding the positions of the parties as to the status of negotiations found violative. (VA Data Processing Center, Austin, Tex., A/SLMR No. 523)
Refusal to Furnish Information

Although Activity failed inadvertently to provide Complainant with its usual written notification of grievance meetings, and refused to supply in writing requested information of efforts to find employee grievant an alternative job based upon health considerations, and also failed to produce medical records of the employee grievant, the A/S found no violation where the evidence did not establish that these actions prejudiced the employee's grievance or disparaged the Union's rights. (Air Force, Vandenberg AFB, Cal., A/SLMR No. 410)

Daily work reports filled out by employee which were referred to and utilized by supervisor in written report of interview which criticized work performance of employee found to constitute relevant and necessary information in connection with determining whether or not to initiate grievances, and refusal of Activity to make such reports available to bargaining representative, upon demand, constitutes violation of Sec. 19(a)(6), (HEW, SSA, Kansas City Payment Cntr, Bur. of Retirement and Survivors Insurance, A/SLMR No. 411)

Failure of Activity to provide, upon demand by bargaining representative, daily work reports filled out by employee which were referred to and utilized by supervisor in written report of interview as basis for critical remarks on work performance of employee found not violative of Sec. 19(a)(6) of Order where evidence showed that employee retained copies of such work reports and bargaining representative could have obtained them from the employee. (HEW, SSA, Kansas City Payment Cntr., Bur. of Retirement and Survivors Insurance, A/SLMR No. 411)

A/S found violation of Sec. 19(a)(6) where Activity failed to supply and/or withheld information from exclusive representative, thereby preventing intelligent representation or bargaining by such representative. The A/S also found that such action fell short of the good faith consultation envisioned by the Order. (Dallas Naval Air Sta., Tex., A/SLMR No. 510)
Section 19(d)

A/S adopted ALJ finding that as issue of alleged "constructive discharge" could have been raised under an appeals procedure, in accordance with Sec. 19(d) of the Order, it may not be raised under Sec. 19. (Navy, Aviation Supply Office, Phila., Pa., A/SLMR No. 434)

A/S adopted ALJ finding that the issue of job content could properly have been raised under Respondent's Job Evaluation Complaint and Appeals Procedure, and therefore, Sec. 19(d) constituted a bar to the proceeding. (Army Tank Automotive Com., Warren, Mich., A/SLMR No. 447)

Issue raised under grievance procedure was not same issue as raised under complaint, the A/S found, contrary to the ALJ's finding that Sec. 19(d) was applicable in his view, because the Complainants had pursued the alleged unfair labor practice through the established grievance procedure. The A/S found that the issue involved in the grievances concerned essentially rights of individual employees under Agency procedure to receive relief from disciplinary action, whereas rights involved in complaint where those of exclusive representative under Sec. 19(e) wherein an exclusive representative must be given the opportunity to be represented at formal discussions concerning grievances. (IRS, SE Service Cntr., Chamblee, Ga., A/SLMR No. 448)

The A/S adopted the ALJ's finding that the Complainant was not precluded from Sec. 19(d) from seeking a remedy by using the unfair labor practice procedures under circumstances where many employees filed individual grievances under the Agency's internal procedure concerning the loss of certain privileges; there is no provision for union grievances under the Agency's internal procedure; and the unfair labor practices alleged dealt with the failure of the Activity to meet and confer with the exclusive representative prior to taking the action which resulted in the loss of the individual employee privileges, as in such circumstances the unfair labor practice spoke to the Complainant's right as an organization to meet and confer, a right which individuals may not claim, rather than individual rights set forth in grievance. (Portsmouth Naval Shipyard, A/SLMR No. 508)
A/S adopted findings, conclusions and recommendations of ALJ that Sec. 19(d) precludes A/S from consideration of Sec. 19(a)(1) and (2) complaints by employees who meet definition of "preference eligible employee" contained in Title 5, U.S. Code, Section 7511, since under title 5, U.S. Code, Section 7701, such employees were entitled to appeal any adverse action, including discharge, to the Civil Service Commission. (TVA, A/SLMR No. 509)

A/S held that Sec. 19(d) permits a Complainant to pursue certain matters involving alleged breaches of contracts through the grievance or unfair labor practice route, but if the unfair labor practice route is chosen, the evidence must establish that there was a patent breach of the contract which constituted a unilateral change in its terms. Issues herein involved questions of contract negotiations upon which reasonable people could differ. The evidence was insufficient to conclude that the Activity's interpretation and application of the negotiated contract were not in good faith, but arose out of a simple and sincere disagreement over the proper interpretation and application and therefore, its conduct was not violative of Sec. 19(a) of the Order. (GSA, Region 5, Public Buildings Service, Chicago Field Offices, A/SLMR No. 528)
The request that Complainant cease passing out dues revocation forms made by officials of Respondent union found not to be violative of Order, as a labor organization is entitled to protect itself from acts which threaten its existence as long as such protection does not include threats related to the job or threats of bodily harm. (AFGE, Local 987, A/SLMR No. 420)

In the circumstances of case, statement by union steward that he would "blackball" Complainant if he sought to rejoin union, not found to be violation of Order. (AFGE, Local 987, A/SLMR No. 420)

A/S, in agreement with the ALJ, found that the Respondent Union did not violate Sec. 19(b)(1) of the Order, based on the ALJ's credibility findings that the Respondent's chief steward did not refuse to process the Complainant's grievance, but merely declined to be his representative due to the fact that he was, and had been, representing the other complainant involved in the Complainant's grievance and, in fact, had referred the Complainant to another union steward who was prepared to represent him. In further agreement with the ALJ, the A/S found that there was no evidence to indicate animus on the part of the newly elected slate of the Respondent's officers towards the Complainant, or any other former official of the Respondent. (AFGE, Local 2028, VA Hosp., Pittsburg, Pa., A/SLMR No. 431)

A/S, in agreement with ALJ, dismissed 19(b)(1) complaint, which was based on Respondent's conduct in restricting participation in a reduced air fare program to members of Respondent. In the view of A/S, the evidence failed to establish that Respondent acted inconsistent with its obligation under Sec. 10(e) to represent all employees in the unit without discrimination and without regard to their labor organization membership since the evidence did not establish that Respondent had obtained, by agreement, a term and condition of employment applicable only to members of Respondent. Rather, the evidence disclosed that Respondent merely obtained FAA's acknowledgement that it would not oppose Respondent's efforts to obtain free or reduced air fare arrangements for its members, or consider the taking advantage of
of such arrangements to be violative of the FAA's code of ethics. (PATCO-MEBA, Indianapolis, Ind., ARTCC, A/SLMR No. 442)

A/S, in agreement with ALJ, found that the Respondent violated Sec. 19(b)(1) by its steward's conduct of singling out and reporting to the Activity the alleged work performance deficiencies of the Complainants who were not members of the Respondent but who were members of another labor organization, while not raising similar known deficiencies on the part of certain members of the Respondent. (NAGE, Local R14-32, Newburg, Mo., (Ft. Leonard Wood, Mo.), A/SLMR No. 469)

A/S, in agreement with ALJ, found that the Respondent violated Sec. 19(b)(2) by its steward's conduct of singling out and reporting to the Activity the alleged work performance deficiencies of the Complainants who were not members of the Respondent but who were members of another labor organization, while not raising similar known deficiencies on the part of certain members of the Respondent. (NAGE, Local R14-32, Newburg, Mo., (Ft. Leonard Wood, Mo.), A/SLMR No. 469)

No violation found where evidence insufficient to establish that actions by Respondent's agents were intended to hinder or impede Complainant's work performance. (AFGE, Local 987, A/SLMR No. 420)

No Entries

No Entries

No Entries

A labor organization may subject its members to discipline, including expulsion, to protect its existence, if such discipline is carried out in accordance with the labor organization's by-laws and constitution which conform to the requirements of the Order. (AFGE, Local 987, A/SLMR No. 420)
Respondent's denial of reinstatement to membership to applicant on grounds other than those set forth in Sec. 19(c) was violative of Order. However, denial of previous application for readmission by applicant did not violate Order where terms of such application went substantially beyond merely obtaining membership. (AFGE, Local 1857, A/SLMR No. 492)

Respondent labor organization's refusal to reinstate Complainant to membership was violative of Sec. 19(c) as refusal was based on grounds other than failure to meet reasonable occupational standards or failure to tender initiation fees and dues uniformly required for admission and retaining membership. However, denial of Complainant's earlier application for retroactive reinstatement did not violate Sec. 19(c) inasmuch as terms of such application went substantially beyond merely obtaining membership. (AFGE, Local 1857, A/SLMR No. 492)
45 00 00 REMEDIAL ORDERS AGAINST AGENCIES: UNFAIR LABOR PRACTICES

45 04 00 Notification and Dissemination of Remedies

FLRC issued stay of certain paragraphs of order in A/SLMR No. 400. A/S issued supplemental decision ordering Respondent to comply with those portions of order in A/SLMR No. 400 which were not stayed by the FLRC. A/S required notice to all employees be posted in accordance with A/SLMR No. 400, as modified by FLRC decision. (Naval Ordnance Sta., Louisville, Ky., A/SLMR No. 471)

45 08 00 Advice of Compliance

No Entries

45 10 00 Modification to Orders

FLRC issued stay of certain paragraphs of order in A/SLMR No. 400. A/S issued supplemental decision ordering Respondent to comply with those portions of order in A/SLMR No. 400 which were not stayed by the FLRC. A/S required notice to all employees be posted in accordance with A/SLMR No. 400, as modified by FLRC decision. (Naval Ordnance Sta., Louisville, Ky., A/SLMR No. 471)

45 12 00 Remedies for Improper Rules, Regulations and Orders

No Entries

45 16 00 Remedies for Improper Conduct

45 16 04 Interference, Solicitation or Distribution of Literature

Activity ordered to cease and desist from: (1) posting letters on bulletin boards relating to meetings pertaining to the collective bargaining relationship between the Activity and the Complainant, and (2) requiring employees to read and initial communications posted on bulletin boards relating to meeting pertaining to the collective bargaining relationship between the Activity and the Complainant. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)

Activity ordered to cease and desist from refusing the request by any employee in the
45 16 04 Interference, Solicitations or Distribution of Literature (Cont'd)

bargaining unit to be represented by the employees' exclusive representative at any formal discussion between management and the employee convened for the purpose of discussing the implementation of a grievance decision. (IRS, Pittsburgh Dist., Pa., A/SLMR No. 498)

Activity ordered to expunge any reference to union activities from employee's personnel file. (IRS, Wilmington, Del. Dist., A/SLMR No. 516)

45 16 08 Discrimination

In addition to ordering the Activity to cease and desist from conduct violative of Secs. 19(a)(1) and (2) of the Order involving the discharge of a union steward, the A/S ordered the Activity to reimburse the steward (a temporary limited tenure employee) for loss of earnings suffered as a result of her discharge. (Miramar Naval Air Sta., Commissary Store, San Diego, Cal., A/SLMR No. 472)

A/S ordered Activity to offer to all employees found to have been unlawfully locked out and discharged, full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, and to make them whole for any loss of pay they may have suffered, by reason of its discrimination, by paying to each employee a sum of money equal to the amount each would have earned as wages from the date of the refusal to permit the employees to return to work to the date of the offer of reinstatement, less any amounts earned through other employment during the above-noted period. (TVA, A/SLMR No. 509)

In view of finding that Respondent had unlawfully denied Complainant a promotion, Respondent must, as part of its affirmative actions to remedy such violation, change Complainant's service computation date as a GS-4, and make her whole for any loss of pay suffered by her by reason of Respondent's failure to promote her on that date. (Army Infantry Center, Civilian Personnel Office, Ft. Benning, Ga., A/SLMR No. 515)
45 16 12 Assisting a Labor Organization

No Entries

45 16 16 Refusal to Accord Appropriate Recognition

The Activity was ordered to cease and desist from refusing to accord appropriate recognition to the exclusive representative of three unit employees whose dues authorization had been revoked subsequent to their transfer to a new organizational entity of the Agency, as they were found to have remained in the unit represented exclusively by the Complainant. (AAFES, MacDill AFB Exchange, MacDill AFB, Fla., A/SLMR No. 514)

45 16 20 Failure to Consult, Confer or Negotiate

Activity ordered to cease and desist from refusing to recognize the Chief Representative designated by the Complainant. (IRS, Omaha District Office, A/SLMR No. 417)

Activity ordered to cease and desist from: (1) posting letters on bulletin boards relating to meetings pertaining to the collective bargaining relationship between the Activity and the Complainant and (2) requiring employees to read and initial communications posted on bulletin boards relating to meetings pertaining to the collective bargaining relationship between the Activity and the Complainant. (Naval Air Sta., Fallon, Nev., A/SLMR No. 432)

A/S disagreed with ALJ's rationale that although Activity committed a "technical violation" of Sec. 19(a)(6), such violation was rendered "moot" by Activity's expressed willingness to return to the bargaining table therefore not requiring remedial order, and issued such an order. (Vandenberg AFB, 4392d Aerospace Support Group, Cal., A/SLMR No. 435)

Activity ordered to cease and desist from failing to notify the exclusive representative concerning changes in the implementation of regulations which require some of its employees to use military forms of address, or other matters affecting the working conditions of employees.
in the unit, and to afford the exclusive representative the opportunity to meet and confer in good faith on such matters to the extent consonant with law and regulations.

Activity was further ordered to cease and desist from failing to meet and confer in good faith with the exclusive representative with respect to exceptions to an Agency requirement that uniforms will be worn by affected employees, by limiting discussions to its unilaterally established criteria for such exceptions. (N.Y. Army and Air Nat'l. Guard, Albany, N.Y., A/SLMR No. 441)

The Respondent was ordered to cease and desist from failing to notify the exclusive representative with respect to the contracting out of auto repair or other operations, and to afford such representative the opportunity to meet and confer, to the extent consonant with the law and regulations, on the impact such contracting out will have on the unit employees adversely affected. (AAFES, Pacific Exchange System, Hawaii Regional Exchange, A/SLMR No. 451)

Activity ordered to cease and desist from unilaterally changing the method or system of selecting employees for overseas duty or assignment without meeting and conferring with the AFGE, the exclusive representative of its unit employees. (Air Force Defense Language Institute, English Language Branch, Lackland AFB, Tex., A/SLMR No. 468)

Activity ordered to cease and desist from conducting formal discussions between management and unit employees, or their representatives, concerning grievances without affording the employees' exclusive representative the opportunity to be represented at such discussions by its own chosen representative. (IRS, Pittsburgh Dist., Pittsburgh, Pa., A/SLMR No. 498)

Activity ordered to cease and desist from requiring two levels of approval of negotiated
agreement with each level having the authority to require conformance with applicable laws, policies and regulations. (Dept. of Agric. and Agric. Research Service, A/SLMR No. 519)

Activity ordered to (1) cease and desist from utilizing or giving effect to any career appraisals of employees represented by the Complainant labor organization issued prior to a labor-management meeting concerning a higher agency directive on appraisal practices; (2) notify the Complainant of any such directives and, upon request, to meet and confer with the Complainant on the procedures and impact of such directives; and (3) rescind all career appraisals issued pursuant to the instant directive prior to the labor-management meeting on the matter. (HQ, Army Armament Com., Rock Island, Ill., A/SLMR No. 527)

Failure to Cooperate

Where the Respondent failed to comply with ALJ's Requests for the Production of Documents and because of such failure to comply the ALJ recommended that the Respondent be required to promote the alleged discriminatee, the A/S concluded that such a remedy was punitive in nature and would not effectuate the purpose and policies of the Order. (Puget Sound Naval Shipyard, Bremerton, Wash., A/SLMR No. 425)

Jurisdictional Questions

No Entries
REMEDIAL ORDERS AGAINST LABOR ORGANIZATIONS: UNFAIR LABOR PRACTICES

50 04 00 Notification and Dissemination of Remedies

No Entries

50 08 00 Advice of Compliance

No Entries

50 12 00 Remedies for Improper Rules, Regulations and Orders

No Entries

50 16 00 Remedies for Improper Conduct

50 16 04 Interference

A/S found Respondent to have singled out and reported alleged work deficiencies of employee members of a rival labor organization, and ordered Respondent to cease and desist from interfering with, restraining or coercing employees in the exercise of rights assured by EO. (NAGE, Local R 14-32, Newburg, Mo., (Ft. Leonard Wood, Mo.), A/SLMR No. 469)

50 16 08 Harassment of Employee in Performance of Duties

No Entries

50 16 12 Inducing Management to Coerce an Employee

Having found labor organization to have singled out and reported to management alleged work deficiencies of employee members of a rival organization, A/S ordered union to cease and desist from attempting to induce management to coerce employees because of their membership in rival labor organization, or because of their non-membership in Respondent labor organization. (Local RL4-32, Newburg, Mo., (Ft. Leonard Wood, Mo.), A/SLMR No. 469)

50 16 16 Strike Activity

No Entries

50 16 20 Discrimination

A/S ordered Respondent to cease and desist
50 16 20 Discrimination (Cont'd)

from failing to represent fairly and equally the interests of all employees in the bargaining unit, because of their non-membership in Respondent labor organization and/or membership in rival labor organization. (NAGE, Local R14-32, Newburg, Mo., (Ft. Leonard Wood, Mo.), A/SLMR No. 469)

50 16 24 Failure to Consult, Confer or Negotiate
No Entries

50 16 28 Denial of Membership
No Entries
55 04 00 Effect on Representation and Unfair Labor Practice Cases
No Entries

55 08 00 Procedure

55 08 04 Jurisdiction
No Entries

55 08 08 Bill of Rights
No Entries

55 08 12 Elections
A/S adopted recommendation of ALJ that complaint be dismissed, which alleged that election of delegates to AFGE National Convention was in violation of Order. Dismissal based on Stipulation entered into between LMWP Director and AFGE in which, among other things, AFGE agreed to conduct its next regularly scheduled election for District Nine Vice-President with technical assistance of Office of Labor-Management and Welfare-Pension Reports. The Director of LMWP, and AFGE, subsequently advised ALJ that terms of Stipulation had been carried out and requested that complaint be dismissed. (AFGE, Dist. Nine and Director, OLMWP, U.S. Dept. of Labor, A/SLMR No. 427)

55 12 00 Bill of Rights

55 12 04 Equal Rights
No Entries

55 12 08 Freedom of Speech
No Entries

55 12 12 Dues, Initiation Fees and Assessments
No Entries

55 12 16 Protection of the Right to Sue
No Entries

55 12 20 Safeguards against Improper Disciplinary Action
No Entries
GRIEVABILITY AND ARBITRABILITY

General

For the purposes of computing the sixty (60) day filing period of an Application for Decision on Grievability or Arbitrability under Sec. 205.2(a) of A/S's Regs., there must be a final written rejection after the arbitration clause is invoked. (R A/S No. 56)

Pursuant to Sec. 6(a)(5) of the Order, A/S is responsible for deciding "questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement." Accordingly, where the parties have entered into a settlement agreement which disposes of the grievance, the issue or issues raised by an Application for Decision on Grievability or Arbitrability will be considered to be moot, and the Application will be dismissed. (R A/S No. 57)

13(a)
No Entries

13(b)
No Entries

13(d)
No Entries

13(e)
No Entries
NUMERICAL TABLE OF DECISIONS
OF THE ASSISTANT SECRETARY OF LABOR
FOR LABOR-MANAGEMENT RELATIONS
JULY 1, 1974 - JUNE 30, 1975
### TABLE OF DECISIONS OF THE ASSISTANT SECRETARY

#### ALPHABETICAL LISTING 1/

<table>
<thead>
<tr>
<th>TITLE</th>
<th>A/SLMR No(s). 2/</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberdeen Proving Ground, Army, Aberdeen, Maryland</td>
<td>412, 518</td>
</tr>
<tr>
<td>Academy of Health Sciences, Army, Ft. Sam Houston, Texas</td>
<td>426</td>
</tr>
<tr>
<td>Agricultural Stabilization and Conservation Office,</td>
<td>453</td>
</tr>
<tr>
<td>Iowa State</td>
<td></td>
</tr>
<tr>
<td>Agriculture, Department of</td>
<td></td>
</tr>
<tr>
<td>-- Agricultural Research Service, Philadelphia, Penna.</td>
<td>479</td>
</tr>
<tr>
<td>-- Agricultural Research Service, Plum Island Animal Disease Center,</td>
<td>428</td>
</tr>
<tr>
<td>New York</td>
<td></td>
</tr>
<tr>
<td>-- Agricultural Research Service, Washington, D.C.</td>
<td>519</td>
</tr>
<tr>
<td>-- Automated Data Systems, Kansas City, Mo.</td>
<td>458</td>
</tr>
<tr>
<td>-- State Agricultural Stabilization and Conservation Service Office,</td>
<td>453</td>
</tr>
<tr>
<td>Iowa</td>
<td></td>
</tr>
<tr>
<td>Air Force, Department of</td>
<td></td>
</tr>
<tr>
<td>-- AFRES, 928th Tactical Airlift Group, Chicago, Illinois</td>
<td>480</td>
</tr>
</tbody>
</table>

1/ To facilitate reference, listings in this Table contain only key words in the case title. For complete official case captions, see Numerical Table of Cases.

2/ During the period covered by this Supplement, where the FLRC modified or remanded an A/S decision, the case number of the original A/S decision (A/SLMR No., or, in the event of an unpublished Request for Review action, the Area Office (AO) case number) is enclosed in parentheses, followed by the FLRC No. and by the A/SLMR No. of any subsequent A/S decision.
Air Force, Department of (cont.)

-- Barksdale Air Force Base, Bossier City, La. 499

-- Davis-Monthan Air Force Base, Arizona 462

-- Defense Language Institute, Lackland Air Force Base, Texas 468

-- Kingsley Field, Klamath Falls, Oregon 443

-- Grand Forks Air Force Base, N.D. 531

-- Lackland Air Force Base, Defense Language Institute, Texas (322, FLRC No. 73A-64, 468)

-- Mountain Home Air Force Base, Idaho 530

-- Plattsburgh Air Force Base, 380th Combat Support Group, N.Y. 493

-- Vandenberg Air Force Base, Calif. 410

-- Vandenberg Air Force Base, Base Procurement Office, Calif. 485

-- Vandenberg Air Force Base, Calif. 4392d Aerospace Support Group 435

-- Warner Robins Air Material Area, Robins AFB, Ga. 420

-- Webb Air Force Base, Texas 439

-- 380th Combat Support Group Plattsburgh Air Force Base, N.Y. 493

-- 928th Tactical Airlift Group (AFRES), Chicago, Ill. 480

Airways Facilities Sector, FAA, San Diego, Calif. 533
<table>
<thead>
<tr>
<th>TITLE</th>
<th>A/SLMR No.(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Federation of Government Employees, AFL-CIO</td>
<td></td>
</tr>
<tr>
<td>-- District Nine, Dallas, Texas</td>
<td>427</td>
</tr>
<tr>
<td>-- McClellan AFB, North Highlands, Calif.</td>
<td>492</td>
</tr>
<tr>
<td>-- National Office and Local 2677</td>
<td>483</td>
</tr>
<tr>
<td>Arizona Air National Guard, Phoenix, Ariz.</td>
<td>436</td>
</tr>
<tr>
<td>Army, Department of</td>
<td></td>
</tr>
<tr>
<td>-- Aberdeen Proving Ground, Md.</td>
<td>412, 518</td>
</tr>
<tr>
<td>-- Academy of Health Sciences, Ft. Sam Houston, Texas</td>
<td>426</td>
</tr>
<tr>
<td>-- Adjutant General Publications Center, St. Louis, Mo.</td>
<td>455, 465</td>
</tr>
<tr>
<td>-- Armament Command, Rock Island, Ill.</td>
<td>527</td>
</tr>
<tr>
<td>-- Camp McCoy, Fifth U.S. Army, Wisc.</td>
<td>500</td>
</tr>
<tr>
<td>-- Civilian Appellate Review Agency, Sacramento, Calif.</td>
<td>488</td>
</tr>
<tr>
<td>-- Club Management Directorate, TAGCEN, Ft. Meade, Md.</td>
<td>521</td>
</tr>
<tr>
<td>-- Commissary Division Office, Military District of Washington,</td>
<td></td>
</tr>
<tr>
<td>Cameron Station</td>
<td>478</td>
</tr>
<tr>
<td>-- Corps of Engineers</td>
<td></td>
</tr>
<tr>
<td>-- Waterways Experiment Station, Vicksburg, Miss.</td>
<td>497</td>
</tr>
<tr>
<td>-- Dugway Proving Ground, Utah</td>
<td>511</td>
</tr>
<tr>
<td>-- Fifth U.S. Army, Camp McCoy, Wisc.</td>
<td>500</td>
</tr>
<tr>
<td>-- Fort</td>
<td></td>
</tr>
<tr>
<td>-- Benning, Infantry Center, Ga.</td>
<td>515</td>
</tr>
<tr>
<td>-- Bliss, Officers Club, NAF, Army Air Defense Center, Texas</td>
<td>505</td>
</tr>
</tbody>
</table>

6-30-75 113
Army, Department of (cont.)

-- Fort (cont.)

-- Meade, Club Management Directorate, TAGCEN

-- Sam Houston, Health Services Command, Texas 490

-- Health Services Command, Ft. Sam Houston, Texas 490

-- Infantry Center, Ft. Benning, Ga. 515

-- Military District of Washington, Commissary Division Office, Cameron Station 478

-- Military Traffic Management Command, Western Management Information Systems Office, Oakland, Calif. 503

-- Officers Club, NAF, Army Air Defense Center and Ft. Bliss, Texas 505

-- Picatinny Arsenal, Dover, N.J. 474, 512, 532

-- Tank Automotive Command, Warren, Mich. 447

-- Training and Doctrine Command, HQ, Washington, D.C. 507

-- Western Management Information Systems Office, Military Traffic Management Command, Oakland, Calif. 503

Army and Air Force Exchange Service

-- MacDill Air Force Base Exchange, Fla. 514

-- Pacific Exchange System, Hawaii Regional Exchange 451, 454

-- Redstone Arsenal, Ala. 491

-- Vandenberg Air Force Base, Calif. 437

114 6-30-75
<table>
<thead>
<tr>
<th>TITLE</th>
<th>A/SLMR No(s.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Army and Air National Guard, N.Y.</td>
<td>441</td>
</tr>
<tr>
<td>Automated Data Systems, Office of, Department of Agriculture, Kansas City, Mo.</td>
<td>458</td>
</tr>
<tr>
<td>Aviation Supply Office, Navy, Philadelphia, Penna.</td>
<td>434</td>
</tr>
<tr>
<td>Baltimore, Naval Plant Representative Office, Md.</td>
<td>486</td>
</tr>
<tr>
<td>Barksdale Air Force Base, Bossier City, La.</td>
<td>499</td>
</tr>
<tr>
<td>Camp McCoy, Fifth U.S. Army, Wisc.</td>
<td>500</td>
</tr>
<tr>
<td>Civilian Appellate Review Agency, Army, Sacramento, Calif.</td>
<td>488</td>
</tr>
<tr>
<td>Civil Service Commission and Department of Navy, Los Angeles, Calif.</td>
<td>529</td>
</tr>
<tr>
<td>Cleveland ARTC Center, FAA</td>
<td>430</td>
</tr>
<tr>
<td>Commerce, Department of</td>
<td></td>
</tr>
<tr>
<td>-- National Oceanic &amp; Atmospheric Administration</td>
<td></td>
</tr>
<tr>
<td>-- National Weather Service, Pittsburgh, Penna.</td>
<td>464</td>
</tr>
<tr>
<td>Commissary Complex Office, Navy, Long Beach, Calif.</td>
<td>522</td>
</tr>
<tr>
<td>Davis-Monthan Air Force Base, Ariz.</td>
<td>462</td>
</tr>
<tr>
<td>Defense, Department of</td>
<td></td>
</tr>
<tr>
<td>-- Air Force, Department of (See: Air Force)</td>
<td></td>
</tr>
<tr>
<td>-- Army, Department of (See: Army)</td>
<td></td>
</tr>
<tr>
<td>-- Army and Air Force Exchange System (See: Army and Air Force)</td>
<td></td>
</tr>
</tbody>
</table>

6-30-75
Defense, Department of (cont.)

-- Defense Supply Agency

-- Defense Contract Administration,
  Salt Lake City District, Utah 461

-- Defense Contract Administration Services Region
  -- San Francisco, Calif. 461

Defense Language Institute, Air Force,
Lackland Air Force Base, Texas (322, FLRC 73A-64, 461)

Defense Supply Agency (See: Defense, Department of)

Dugway Proving Ground, Utah 511

Farmers Home Administration, Arkansas 506

Federal Aviation Administration (See: Transportation)

Federal Deposit Insurance Corp., N.Y. 459

Federal Highway Administration, Office of Federal Highway Projects, Vancouver, Wash. 513

Federal Railroad Administration 418

Federal Supply Service, Region 5, General Services Administration, Chicago, Ill. 526

Fort (See: Army, and Army and Air Force)

Fresno Service Center,
Internal Revenue Service 489

General Services Administration
  -- Region 5, Chicago, Ill. 526, 528
  -- Region 7, Ft. Worth, Texas 416

Geological Survey, U.S.
  -- Mid-Continent Mapping Center 495
  -- Rolla, Mo. 413, 460
Grand Forks Air Force Base, N.D. 531

Great Lakes Program Center
HEW, Social Security Administration, Chicago, Ill. 419

Hawaii Regional Exchange,
Pacific Exchange System, AAFES 454

Health, Education and Welfare, Department of

-- Public Health Services Hospital

-- Brighton, Mass. 502

-- Region VIII, Denver, Colo. 476

-- Social Security Administration

-- Great Lakes Program Center, Chicago, Ill. 419

-- Kansas City Payment Center, Mo. 411

-- Western Program Center
San Francisco, Calif. 501

Health Services Command, Army,
Ft. Sam Houston, Texas 490

Housing and Urban Development, Department of

-- Detroit Area Office 414

Interior, Department of

-- Geological Survey

-- Mid-Continent Mapping Center 495

-- Rolla, Mo. 413, 460

Internal Revenue Service (See: Treasury)

Kingsley Field, Air Force,
Klamath Falls, Oregon 443
McClellan Air Force Base, AFGE,
North Highlands, Calif. 492

Mid-Atlantic Service Center,
Treasury, IRS 421

Mid-Continent Mapping Center,
U.S. Geological Survey 495

Military District of Washington,
Commissary Division Office,
Cameron Station 478

Military Sealift Command,
Pacific, Oakland, Calif. 494

Miramar Naval Air Station,
Commissary Store, San Diego, Calif. 472

Mountain Home Air Force Base, Idaho 530

National Aeronautics and Space Administration (NASA)
Washington, D.C. 457

National Association of Government Employees,
Local R14-32, Newburg, Miss. 469

National Aviation Facilities Experimental
Center, Atlantic City, N.J. 481, 482

National Guard

-- New York Army and Air National Guard 441

-- Pennsylvania Army National Guard 475

-- Texas Adjutant General's Department,
Austin, Texas 524

National Labor Relations Board (295, FLRC No. 73A-53, 467)

National Labor Relations Board Region 17 (295, FLRC No. 73A-53, 467)

National Oceanic and Atmospheric
Administration (See: Commerce)

National Science Foundation,
Washington, D.C. 487
National Weather Service, NOAA
Dept. of Commerce, Pittsburgh, Penna. 464

Navy, Department of

-- Aviation Supply Office,
   Philadelphia, Penna. 434

-- Commissary Complex Office,
   Long Beach, Calif. 522

-- Department of Navy and Civil Service
   Commission, Los Angeles, Calif. 529

-- Military Sealift Command, Pacific,
   Oakland, Calif. 494

-- Naval Air Rework Facility
   -- Jacksonville, Fla. 446

-- Naval Air Station
   -- Belle Chasse, La. 520
   -- Dallas, Texas 510
   -- Fallon, Nev. 432
   -- Miramar, San Diego, Calif. 472
   -- Pensacola, Fla. 466
   -- San Diego, Calif. 422, 452

-- Naval Education and Training Center,
   Newport, R.I. 496

-- Naval Education and Training Information
   Systems Activity, Naval Air Station,
   Pensacola, Fla. 466

-- Naval Ordnance Station,
   Louisville, Ky. (400, FLRC No. 74A-54, 440, 471)

-- Naval Plant Representative Office,
   Baltimore, Md. 486

6-30-75 119
Navy, Department of (cont.)

-- Pearl Harbor, Naval Station, Hawaii
   504

-- Portsmouth Naval Shipyard, N.H.
   445, 508

-- Puget Sound Naval Shipyard, Bremerton, Wash.
   415, 425, 525

-- San Diego Marine Corps Exchange, San Diego, Calif.
   409

New York Army and Air National Guard

Office of Economic Opportunity, Region V, Chicago, Ill.

Pacific Exchange System, AAFES, Hawaii Regional Exchange

PATCO-MEBA, Federal Aviation Administration, Indianapolis, Ind.

Pennsylvania Army National Guard

Picatinny Arsenal, Dover, N.J.

Plum Island Animal Disease Center, Agricultural Research Service, N.Y.

Portsmouth Naval Shipyard, N.H.

Public Health Service (See: Health, Education and Welfare)

Puget Sound Naval Shipyard, Bremerton, Wash.

Redstone Arsenal, AAFES, Ala.

San Diego Marine Corps Exchange, San Diego, Calif.

Small Business Administration, Seattle Regional Office, Seattle, Wash.

120
Social Security Administration
(See: Health, Education and Welfare)

Southeast Service Center,
Internal Revenue Service,
Chamblee, Ga. 448

Tank Automotive Command,
Warren, Mich. 447

Tennessee Valley Authority 509

Texas Adjutant General's Department,
National Guard Bureau,
Austin, Texas 524

Transportation, Department of

-- Federal Aviation Administration

-- Airways Facilities Sector,
San Diego, Calif. 533

-- Atlantic City, N.J. 438

-- Cleveland ARTC Center,
Oberlin, Ohio 430

-- Las Vegas, Nev. 429

-- National Aviation Facilities
Experimental Center,
Atlantic City, N.J. 481, 482

-- PATCO-MEBA, Indianapolis, Ind. 442

-- Southern Region (Ga.) 456

-- Washington, D.C. 517

-- Federal Highway Administration,
Office of Federal Highway Projects,
Vancouver, Wash. 513

Treasury, Department of

-- Internal Revenue Service

-- Fresno Service Center, Calif. 489

6-30-75 121
<table>
<thead>
<tr>
<th>Treasury, Department of (cont.)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>-- Internal Revenue Service (cont.)</td>
<td></td>
</tr>
<tr>
<td>-- Memphis Service Center, Memphis, Tenn.</td>
<td>444</td>
</tr>
<tr>
<td>-- Mid-Atlantic Service Center, Phila., Pa.</td>
<td>421</td>
</tr>
<tr>
<td>-- Office of the Regional Commissioner, Western Region</td>
<td>473</td>
</tr>
<tr>
<td>-- Omaha District Office</td>
<td>417</td>
</tr>
<tr>
<td>-- Pittsburgh, Penna.</td>
<td>498</td>
</tr>
<tr>
<td>-- Southeast Service Center, Chamblee, Ga.</td>
<td>448</td>
</tr>
<tr>
<td>-- Wilmington, Del.</td>
<td>516</td>
</tr>
<tr>
<td>Vandenberg Air Force Base, Calif.</td>
<td>410</td>
</tr>
<tr>
<td>Vandenberg Air Force Base, Calif.</td>
<td></td>
</tr>
<tr>
<td>-- Army and Air Force Exchange Service</td>
<td>437</td>
</tr>
<tr>
<td>-- Base Procurement Office</td>
<td>485</td>
</tr>
<tr>
<td>-- 4392d Aerospace Support Group</td>
<td>435</td>
</tr>
<tr>
<td>Veterans Administration</td>
<td></td>
</tr>
<tr>
<td>-- Center</td>
<td></td>
</tr>
<tr>
<td>-- Bath, N.Y.</td>
<td>433</td>
</tr>
<tr>
<td>-- Biloxi, Miss.</td>
<td>450</td>
</tr>
<tr>
<td>-- Data Processing Center, Austin, Tex.</td>
<td>523</td>
</tr>
<tr>
<td>-- Department of Data Management, Washington, D.C.</td>
<td>523</td>
</tr>
<tr>
<td>-- Hospital</td>
<td></td>
</tr>
<tr>
<td>-- Montrose, N.Y.</td>
<td>470, 484</td>
</tr>
<tr>
<td>-- Pittsburgh, Penna.</td>
<td>431</td>
</tr>
</tbody>
</table>
Veterans Administration (cont.)

-- Hospital (cont.)

-- Wadsworth, Los Angeles, Calif.  449

Waterways Experiment Station, Army Engineers,
Vicksburg, Miss.  497

Webb Air Force Base, Texas  439

Western Program Center, SSA,
San Francisco, Calif.  501
ALPHABETICAL TABLE OF DECISIONS

OF THE ASSISTANT SECRETARY OF LABOR

FOR LABOR-MANAGEMENT RELATIONS

JULY 1, 1974 - JUNE 30, 1975
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved 1/</th>
</tr>
</thead>
<tbody>
<tr>
<td>409. Department of the Navy,</td>
<td>10 04 16; 25 20 00</td>
</tr>
<tr>
<td>San Diego Marine Corps Exch.</td>
<td></td>
</tr>
<tr>
<td>San Diego, California (7-9-74)</td>
<td></td>
</tr>
<tr>
<td>410. Department of the Air Force,</td>
<td>35 28 36</td>
</tr>
<tr>
<td>Vandenberg Air Force Base,</td>
<td></td>
</tr>
<tr>
<td>California (7-9-74)</td>
<td></td>
</tr>
<tr>
<td>411. Department of HEW, SSA,</td>
<td>35 08 04; 35 28 36</td>
</tr>
<tr>
<td>Kansas City Payment Center,</td>
<td></td>
</tr>
<tr>
<td>Missouri (7-10-74)</td>
<td></td>
</tr>
<tr>
<td>412. Department of the Army,</td>
<td>30 32 00; 35 28 36</td>
</tr>
<tr>
<td>Aberdeen Proving Ground,</td>
<td></td>
</tr>
<tr>
<td>Maryland (7-11-74)</td>
<td></td>
</tr>
<tr>
<td>413. U.S. Geological Survey,</td>
<td>10 04 12; 10 24 12;</td>
</tr>
<tr>
<td>Department of the Interior,</td>
<td>10 28 00; 10 32 00;</td>
</tr>
<tr>
<td>Rolla, Missouri (7-11-74)</td>
<td>15 12 00; 15 28 00</td>
</tr>
<tr>
<td>414. Department of Housing and Urban</td>
<td>30 04 00; 30 12 24;</td>
</tr>
<tr>
<td>Development, Detroit Area Office,</td>
<td>35 28 08</td>
</tr>
<tr>
<td>Detroit, Michigan (7-12-74)</td>
<td></td>
</tr>
<tr>
<td>415. Department of the Navy,</td>
<td>30 28 00; 35 08 04;</td>
</tr>
<tr>
<td>Puget Sound Naval Shipyard,</td>
<td>35 12 00; 35 28 28</td>
</tr>
<tr>
<td>Bremerton, Washington (7-12-74)</td>
<td></td>
</tr>
<tr>
<td>416. General Services Administration,</td>
<td>35 08 04</td>
</tr>
<tr>
<td>Region 7,</td>
<td></td>
</tr>
<tr>
<td>Fort Worth, Texas (7-16-74)</td>
<td></td>
</tr>
</tbody>
</table>

1/ Listing includes all Sections involved except Section 20 20 00, "Employee Categories and Classifications," in which entries are listed alphabetically. In this connection, it should be noted that those decisions which reflect no digest entries are, in fact, digested under Section 20 20 00.
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>417. Internal Revenue Service, Omaha District Office (7-31-74)</td>
<td>35 04 08; 35 08 04; 35 28 08; 45 16 20</td>
</tr>
<tr>
<td>418. Federal Railroad Administration, Washington, D.C. (7-31-74)</td>
<td>35 08 04; 35 28 12</td>
</tr>
<tr>
<td>419. Department of HEW, Social Security Administration, Great Lakes Program Center, Chicago (8-1-74)</td>
<td>35 08 04; 35 28 12</td>
</tr>
<tr>
<td>420. Warner Robins Air Material Area, Robins AFB, Georgia (8-1-74)</td>
<td>30 24 00; 40 08 00; 40 16 00; 40 32 00</td>
</tr>
<tr>
<td>421. Internal Revenue Service, Mid-Atlantic Service Center (8-26-74)</td>
<td>35 08 04; 35 28 16</td>
</tr>
<tr>
<td>422. United States Navy, Naval Air Station (North Island), San Diego, California (8-26-74)</td>
<td>35 08 04; 35 12 00</td>
</tr>
<tr>
<td>423. Seattle Regional Office, Small Business Administration, Seattle, Washington (8-26-74)</td>
<td>35 12 00; 35 28 28</td>
</tr>
<tr>
<td>424. Veterans Administration Hospital, Salisbury, North Carolina (8-27-74)</td>
<td>35 16 00</td>
</tr>
<tr>
<td>425. Puget Sound Naval Shipyard, Department of the Navy, Bremerton, Washington (8-28-74)</td>
<td>05 12 08; 30 12 28; 45 16 24</td>
</tr>
<tr>
<td>426. Academy of Health Sciences, United States Army, Fort Sam Houston, Texas (9-4-74)</td>
<td>15 28 00</td>
</tr>
<tr>
<td>427. American Federation of Government Employees, District Nine, Dallas, Texas (9-30-74)</td>
<td>55 08 12</td>
</tr>
</tbody>
</table>

128 6-30-75
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>428. Agricultural Research Service,</td>
<td></td>
</tr>
<tr>
<td>Plum Island Animal Disease Center,</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>429. Department of Transportation,</td>
<td>35 08 04</td>
</tr>
<tr>
<td>Federal Aviation Administration,</td>
<td></td>
</tr>
<tr>
<td>Las Vegas, Nevada</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>430. Federal Aviation Administration,</td>
<td>35 08 04; 35 24 00;</td>
</tr>
<tr>
<td>Cleveland ARTC Center,</td>
<td>35 28 16</td>
</tr>
<tr>
<td>Oberlin, Ohio</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>431. Veterans Administration Hospital</td>
<td>40 08 00</td>
</tr>
<tr>
<td>Pittsburgh, Pennsylvania</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>432. Department of the Navy,</td>
<td>35 08 04; 35 28 08;</td>
</tr>
<tr>
<td>Naval Air Station,</td>
<td>35 28 32; 45 16 04;</td>
</tr>
<tr>
<td>Fallon, Nevada</td>
<td>45 16 20</td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>433. Veterans Administration Center,</td>
<td>35 08 04; 35 12 00</td>
</tr>
<tr>
<td>Bath, New York</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>434. Department of the Navy,</td>
<td>35 32 00</td>
</tr>
<tr>
<td>Aviation Supply Office,</td>
<td></td>
</tr>
<tr>
<td>Philadelphia, Pennsylvania</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>435. Vandenberg Air Force Base,</td>
<td>35 08 04; 35 28 04;</td>
</tr>
<tr>
<td>4392d Aerospace Support Group,</td>
<td>35 28 08; 45 16 20</td>
</tr>
<tr>
<td>California</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>436. Department of the Air Force,</td>
<td>25 20 00</td>
</tr>
<tr>
<td>Arizona Air National Guard,</td>
<td></td>
</tr>
<tr>
<td>Phoenix, Arizona</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
<tr>
<td>437. Army &amp; Air Force Exchange Service,</td>
<td>35 08 04; 35 12 00;</td>
</tr>
<tr>
<td>Vandenberg Air Force Base,</td>
<td>35 28 08</td>
</tr>
<tr>
<td>California</td>
<td></td>
</tr>
<tr>
<td>(9-30-74)</td>
<td></td>
</tr>
</tbody>
</table>

6-30-75
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>438. Federal Aviation Administration, Atlantic City, New Jersey (9-30-74)</td>
<td>35 24 00; 35 28 08; 35 28 12; 35 28 16</td>
</tr>
<tr>
<td>440. U.S. Naval Ordnance Station, Louisville, Kentucky (9-30-74)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>441. New York Army &amp; Air National Guard (9-30-74)</td>
<td>30 04 00; 35 08 04; 35 28 08; 35 28 20; 35 28 24; 35 28 28; 35 28 32; 45 16 20</td>
</tr>
<tr>
<td>442. Federal Aviation Administration, PATCO-MEBA Indianapolis, Indiana (10-22-74)</td>
<td>40 08 00</td>
</tr>
<tr>
<td>443. U.S. Air Force, Kingsley Field, Klamath Falls, Oregon (10-22-74)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>444. Internal Revenue Service, Memphis Service Center, Memphis, Tennessee (10-22-74)</td>
<td>35 08 04; 35 12 00; 35 20 00; 35 28 32</td>
</tr>
<tr>
<td>445. U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire (10-22-74)</td>
<td>35 08 04; 35 12 00</td>
</tr>
<tr>
<td>446. U.S. Department of the Navy, Naval Air Rework Facility, Jacksonville, Florida (10-22-74)</td>
<td>35 12 00; 35 20 00</td>
</tr>
<tr>
<td>447. Department of the Army, U.S. Army Tank Automotive Command, Warren, Michigan (10-31-74)</td>
<td>35 08 04; 35 12 00; 35 32 00</td>
</tr>
<tr>
<td>A/SLMR No., Case Name and Date Issued</td>
<td>Section(s) of Digest Involved</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>448. Internal Revenue Service, Southeast Service Center, Chamblee, Georgia (10-31-74)</td>
<td>35 28 00; 35 32 32</td>
</tr>
<tr>
<td>449. Veterans Administration, Wadsworth Hospital, Los Angeles, California (10-31-74)</td>
<td>35 08 04; 35 12 00; 35 28 08; 35 28 32</td>
</tr>
<tr>
<td>450. Veterans Administration, Biloxi, Mississippi (10-31-74)</td>
<td>35 08 04; 35 12 00</td>
</tr>
<tr>
<td>452. United States Navy, Naval Air Station (North Island), San Diego, California (11-5-74)</td>
<td>05 08 00; 35 08 04</td>
</tr>
<tr>
<td>453. Iowa State Agricultural Stabilization and Conservation Service Office, Department of Agriculture (11-5-74)</td>
<td>35 28 08; 35 28 12</td>
</tr>
<tr>
<td>454. Army &amp; Air Force Exchange Service, Pacific Exchange System, Hawaii Regional Exchange (11-26-74)</td>
<td>35 08 00; 35 28 12</td>
</tr>
<tr>
<td>455. U.S. Department of Defense, Department of the Army, Army Adjutant General, St. Louis, Missouri (11-26-74)</td>
<td>35 08 04; 35 28 28</td>
</tr>
<tr>
<td>456. U.S. Department of Transportation, Federal Aviation Administration, Southern Region (Georgia) (11-26-74)</td>
<td>20 12 44</td>
</tr>
<tr>
<td>457. National Aeronautics &amp; Space Administration, Washington, D.C. (11-26-74)</td>
<td>35 08 04; 35 28 08; 35 28 32</td>
</tr>
</tbody>
</table>

6-30-75 131
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Sections of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>458. Department of Agriculture,</td>
<td>20 04 04; 20 04 08; 20 04 12;</td>
</tr>
<tr>
<td>Office of Automated Data Systems,</td>
<td>20 08 08; 20 12 08; 20 12 60</td>
</tr>
<tr>
<td>Kansas City, Missouri</td>
<td>(11-27-74)</td>
</tr>
<tr>
<td>459. Federal Deposit Insurance Corp.,</td>
<td>20 04 04; 20 12 64</td>
</tr>
<tr>
<td>New York</td>
<td>(11-27-74)</td>
</tr>
<tr>
<td>460. U.S. Geological Survey, Department of Interior, Rolla, Missouri</td>
<td>10 04 12; 10 28 00</td>
</tr>
<tr>
<td>(11-27-74)</td>
<td></td>
</tr>
<tr>
<td>461. Defense Supply Agency, Defense</td>
<td>20 04 04; 20 04 08; 20 04 12</td>
</tr>
<tr>
<td>Contract Administration Services</td>
<td></td>
</tr>
<tr>
<td>Region (DCASR)</td>
<td></td>
</tr>
<tr>
<td>San Francisco, California,</td>
<td></td>
</tr>
<tr>
<td>Defense Contract Administration</td>
<td></td>
</tr>
<tr>
<td>Services District (DCASD),</td>
<td></td>
</tr>
<tr>
<td>Salt Lake City, Utah</td>
<td>(11-27-74)</td>
</tr>
<tr>
<td>462. U.S. Department of the Air Force,</td>
<td>10 24 12; 20 16 04</td>
</tr>
<tr>
<td>Davis-Monthan Air Force Base,</td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td>(11-27-74)</td>
</tr>
<tr>
<td>463. Department of Defense, Defense</td>
<td>20 12 28; 20 12 44</td>
</tr>
<tr>
<td>Contract Audit Agency, Chicago</td>
<td></td>
</tr>
<tr>
<td>Branch Office</td>
<td></td>
</tr>
<tr>
<td>(12-3-74)</td>
<td></td>
</tr>
<tr>
<td>464. U.S. Department of Commerce,</td>
<td>35 08 04</td>
</tr>
<tr>
<td>National Oceanic &amp; Atmospheric</td>
<td></td>
</tr>
<tr>
<td>Administration, Pittsburgh,</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
</tr>
<tr>
<td>(12-3-74)</td>
<td></td>
</tr>
<tr>
<td>465. Department of the Army, Department of Defense, Adjutant General Publications Center, St. Louis, Missouri</td>
<td>35 28 28</td>
</tr>
<tr>
<td>(12-3-74)</td>
<td></td>
</tr>
<tr>
<td>466. Naval Education &amp; Training Information Systems Activity, Naval Air Station, Pensacola, Florida</td>
<td>20 04 04; 20 08 12; 20 08 16; 20 12 60</td>
</tr>
<tr>
<td>(12-4-74)</td>
<td></td>
</tr>
</tbody>
</table>

132

6-30-75
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>467. National Labor Relations Board, Region 17, and National Labor Relations Board (12-4-74)</td>
<td>30 12 24; 30 32 00</td>
</tr>
<tr>
<td>468. Air Force Defense Language Institute, Lackland Air Force Base, Texas (12-4-74)</td>
<td>35 28 08; 35 28 12; 45 16 20</td>
</tr>
<tr>
<td>469. National Association of Government Employees, Local R14-32, Newburg, Missouri (12-19-74)</td>
<td>40 08 00; 40 12 00; 50 16 04; 50 16 12; 50 16 20</td>
</tr>
<tr>
<td>470. Veterans Administration Hospital, Montrose, New York (12-30-74)</td>
<td>10 04 20; 25 24 00</td>
</tr>
<tr>
<td>471. U.S. Department of the Navy, Naval Ordnance Station, Louisville, Kentucky (12-30-74)</td>
<td>45 04 00; 45 10 00</td>
</tr>
<tr>
<td>472. Miramar Naval Air Station Commissary Store, San Diego, California (1-16-75)</td>
<td>35 08 04; 35 12 00; 45 16 08</td>
</tr>
<tr>
<td>473. Internal Revenue Service, Office of the Regional Commissioner, Western Region (1-16-75)</td>
<td>35 08 04; 35 28 28</td>
</tr>
<tr>
<td>474. U.S. Department of the Army, Picatinny Arsenal, Dover, New Jersey (1-16-75)</td>
<td>20 04 04</td>
</tr>
<tr>
<td>475. Pennsylvania Army National Guard (1-16-75)</td>
<td>35 28 12</td>
</tr>
<tr>
<td>476. Department of Health, Education and Welfare, Region VIII, Denver, Colorado (1-31-75)</td>
<td>20 16 04; 20 16 08; 25 20 00</td>
</tr>
</tbody>
</table>

6-30-75

133
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>477. Office of Economic Opportunity, Region V, Chicago, Illinois (1-31-75)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>478. Military District of Washington, Commissary Division Office, Cameron Station (1-31-75)</td>
<td>25 20 00</td>
</tr>
<tr>
<td>479. U.S. Department of Agriculture, Agricultural Research Service, Philadelphia, Pennsylvania (1-31-75)</td>
<td>20 04 04; 20 04 08; 20 04 12</td>
</tr>
<tr>
<td>480. Department of Defense, Department of the Air Force, 928th Tactical Airlift Group (AFRES), Chicago, Illinois (1-31-75)</td>
<td>25 24 00</td>
</tr>
<tr>
<td>481. U.S. Department of Transportation, Federal Aviation Administration, Aviation Facilities Experimental Center, Atlantic City, New Jersey (1-31-75)</td>
<td>10 04 08; 10 04 20; 10 24 12; 15 12 00; 20 04 20; 20 12 48; 20 16 28; 25 24 00</td>
</tr>
<tr>
<td>482. U.S. Department of Transportation, Federal Aviation Administration, National Aviation Facilities Experimental Center, Atlantic City, New Jersey (1-31-75)</td>
<td>30 12 28</td>
</tr>
<tr>
<td>483. American Federation of Government Employees, National Office and American Federation of Government Employees, Local 2677 (2-4-75)</td>
<td>10 24 12; 20 16 04</td>
</tr>
<tr>
<td>484. Veterans Administration Hospital, Montrose, New York (2-4-75)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>485. Department of the Air Force, Base Procurement Office, Vandenberg Air Force Base, California (2-4-75)</td>
<td></td>
</tr>
</tbody>
</table>

134

6-30-75
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>486. Department of the Navy, Naval Plant Representative Office, Baltimore, Maryland (2-28-75)</td>
<td>35 28 12</td>
</tr>
<tr>
<td>487. National Science Foundation, Washington, D.C. (2-28-75)</td>
<td>05 04 00</td>
</tr>
<tr>
<td>488. U.S. Army Civilian Appellate Review Agency Sacramento, California (2-28-75)</td>
<td>05 08 00; 35 08 04</td>
</tr>
<tr>
<td>489. Internal Revenue Service, Fresno Service Center (2-28-75)</td>
<td>30 12 24; 35 28 12; 35 28 16</td>
</tr>
<tr>
<td>490. U.S. Army Health Services Command, Fort Sam Houston, Texas (2-28-75)</td>
<td>20 12 08; 20 12 20; 20 12 64</td>
</tr>
<tr>
<td>491. U.S. Army and Air Force Exchange Service, Redstone Arsenal, Alabama (2-28-75)</td>
<td>35 08 04; 35 12 00</td>
</tr>
<tr>
<td>492. American Federation of Government Employees - McClellan Air Force Base, North Highlands, California (2-28-75)</td>
<td>40 32 00</td>
</tr>
<tr>
<td>493. Plattsburgh Air Force Base, 380th Combat Support Group, Plattsburgh, New York (3-24-75)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>494. Department of the Navy, Military Sealift Command, Pacific, Oakland, California (3-27-75)</td>
<td>10 04 16; 20 16 08</td>
</tr>
<tr>
<td>495. U.S. Department of Interior, U.S. Geological Survey, Mid-Continent Mapping Center (3-31-75)</td>
<td>20 12 08; 20 12 24</td>
</tr>
<tr>
<td>496. Naval Education and Training Center, Newport, Rhode Island (3-31-75)</td>
<td>20 16 28; 25 20 00</td>
</tr>
</tbody>
</table>

6-30-75 135
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>497. U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi (3-31-75)</td>
<td>35 08 04; 35 28 16; 45 16 04; 45 16 20</td>
</tr>
<tr>
<td>498. U.S. Department of the Treasury, Internal Revenue Service, Pittsburgh, Pennsylvania (3-31-75)</td>
<td>25 20 00</td>
</tr>
<tr>
<td>499. Barksdale Air Force Base, Bossier City, Louisiana (3-31-75)</td>
<td>20 04 04; 20 04 08; 20 04 12; 20 12 60</td>
</tr>
<tr>
<td>500. Fifth U.S. Army, Camp McCoy, Wisconsin (3-31-75)</td>
<td>35 08 04; 35 28 12</td>
</tr>
<tr>
<td>502. U.S. Public Health Hospital, Brighton, Massachusetts (4-28-75)</td>
<td>40 04 04; 40 04 08; 40 04 12; 40 12 60</td>
</tr>
<tr>
<td>503. Western Management Information Systems Office, Oakland Army Base, California (4-28-75)</td>
<td>50 28 00</td>
</tr>
<tr>
<td>504. U.S. Department of the Navy, Naval Station, Pearl Harbor, Hawaii (4-28-75)</td>
<td>50 28 00</td>
</tr>
<tr>
<td>505. Department of Defense, U.S. Army Nonappropriated Fund, Fort Bliss, Texas (4-29-75)</td>
<td>10 24 12</td>
</tr>
<tr>
<td>506. Farmers Home Administration, State of Arkansas (4-29-75)</td>
<td>20 04 04; 20 04 08; 20 04 12; 20 12 64</td>
</tr>
<tr>
<td>A/SLMR No., Case Name and Date Issued</td>
<td>Section(s) of Digest Involved</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>508. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire (4-29-75)</td>
<td>35 28 08; 35 28 12; 35 32 00</td>
</tr>
<tr>
<td>509. Tennessee Valley Authority (4-28-75)</td>
<td>05 08 00; 30 16 00; 30 28 00; 35 08 04; 35 12 00; 35 32 00; 45 16 08</td>
</tr>
<tr>
<td>510. Dallas Naval Air Station, Dallas, Texas (4-29-75)</td>
<td>35 08 04; 35 12 00; 35 28 36</td>
</tr>
<tr>
<td>511. Department of the Army, Dugway Proving Ground, Dugway, Utah (4-30-75)</td>
<td>30 04 00; 35 08 04; 35 24 00; 35 28 08; 35 28 28</td>
</tr>
<tr>
<td>512. Department of the Army, Picatinny Arsenal, Dover, New Jersey (5-16-75)</td>
<td>35 08 04</td>
</tr>
<tr>
<td>513. Office of Federal Highway Projects, Federal Highway Administration, Department of Transportation, Vancouver, Washington (5-23-75)</td>
<td>35 28 20; 35 28 24</td>
</tr>
<tr>
<td>514. Army and Air Force Exchange Service, MacDill Air Force Base Exchange, Florida (5-23-75)</td>
<td>35 08 04; 35 24 00; 45 16 16</td>
</tr>
<tr>
<td>515. Department of the Army, U.S. Army Infantry Center, Fort Benning, Georgia (5-23-75)</td>
<td>35 08 04; 35 12 00; 45 16 08</td>
</tr>
<tr>
<td>516. Internal Revenue Service, Wilmington, Delaware District (5-23-75)</td>
<td>35 08 04; 35 12 00; 45 16 04</td>
</tr>
<tr>
<td>517. Department of Transportation, Federal Aviation Administration, Washington, D.C. (5-30-75)</td>
<td>30 20 00; 30 28 00; 35 08 04; 35 28 28</td>
</tr>
</tbody>
</table>

6-30-75 137
<table>
<thead>
<tr>
<th>A/SLMR No., Case Name and Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>518. Department of the Army, Aberdeen Proving Ground, Maryland (5-30-75)</td>
<td>35 08 04; 35 28 28</td>
</tr>
<tr>
<td>519. U.S. Department of Agriculture, Agricultural Research Service, Washington, D.C. (5-30-75)</td>
<td>05 04 00; 35 28 24; 45 16 20</td>
</tr>
<tr>
<td>520. U.S. Naval Air Station, New Orleans, Belle Chasse, Louisiana (5-30-75)</td>
<td>10 04 12; 10 12 00; 10 24 12; 10 44 00</td>
</tr>
<tr>
<td>521. U.S. Army Club Management Directorate, TAGCEN, Fort Meade, Maryland (6-23-75)</td>
<td></td>
</tr>
<tr>
<td>522. Department of the Navy, Navy Commissary Complex Office, Long Beach, California (6-23-75)</td>
<td>25 20 00</td>
</tr>
<tr>
<td>523. Veterans Administration, Veterans Administration Data Processing Center and Veterans Administration, Department of Data Management, Washington, D.C. (6-24-75)</td>
<td>35 08 04; 35 12 00; 35 28 32</td>
</tr>
<tr>
<td>524. National Guard Bureau, Texas Adjutant General's Department, Austin, Texas (6-30-75)</td>
<td>25 20 00</td>
</tr>
<tr>
<td>525. Puget Sound Naval Shipyard Bremerton, Washington (6-30-75)</td>
<td>35 12 00</td>
</tr>
<tr>
<td>526. General Services Administration, Region 5, Federal Supply Service, Chicago, Illinois (6-30-75)</td>
<td>20 16 04</td>
</tr>
<tr>
<td>527. U.S. Army Armament Command, Rock Island, Illinois (6-30-75)</td>
<td>35 28 12; 45 16 20</td>
</tr>
<tr>
<td>A/SLMR No., Case Name and Date Issued</td>
<td>Section(s) of Digest Involved</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>528. General Services Administration, Region 5, Chicago, Illinois (6-30-75)</td>
<td>35 28 28; 35 32 00</td>
</tr>
<tr>
<td>529. Department of the Navy and United States Civil Service Commission, Los Angeles, California (6-30-75)</td>
<td>35 28 16</td>
</tr>
<tr>
<td>531. Department of the Air Force, Grand Forks Air Force Base, North Dakota (6-30-75)</td>
<td>10 24 12; 20 16 04</td>
</tr>
<tr>
<td>532. Department of the Army, Picatinny Arsenal, Dover, New Jersey (6-30-75)</td>
<td>35 08 04; 35 20 00</td>
</tr>
<tr>
<td>533. Federal Aviation Administration, Airways Facilities Sector, San Diego, California (6-30-75)</td>
<td>35 08 04; 35 28 00</td>
</tr>
</tbody>
</table>
## TABLE OF REPORTS ON RULINGS OF THE ASSISTANT SECRETARY 1/

**NUMERICAL LISTING, DATES OF ISSUANCE AND SECTIONS OF DIGEST INVOLVED**

<table>
<thead>
<tr>
<th>R A/S No.</th>
<th>Date Issued</th>
<th>Section(s) of Digest Involved</th>
</tr>
</thead>
<tbody>
<tr>
<td>56</td>
<td>10-15-74</td>
<td>60 04 00</td>
</tr>
<tr>
<td>57</td>
<td>11-12-74</td>
<td>60 04 00</td>
</tr>
<tr>
<td>58</td>
<td>2-10-75</td>
<td>25 08 08; 25 08 12; 25 08 28</td>
</tr>
</tbody>
</table>

---

1/ Reports on Rulings of the Assistant Secretary (R A/S) are published summaries of significant or precedent setting decisions by the A/S on requests for review of actions taken at the field level. These Reports, originally referred to as Reports on Decisions, but now referred to as Reports on Rulings of the Assistant Secretary, do not identify the parties involved.
INDEX

- A -

ABUSE OF ADMINISTRATIVE PROCESS 10 28 00
AC PETITION 10 04 20
ACCESS TO WORK AREAS, CAMPAIGNING 25 08 16; 35 08 00
ACCRETION 20 16 08
ACTIVITY PETITION (RA) 10 04 08
ADDITIONS TO UNIT 20 16 08
ADEQUACY OF
   Record 15 28 00
   Showing of Interest 10 16 00; 20 16 08
ADMISSIBILITY OF EVIDENCE AT HEARINGS 05 12 08
ADVICE, ERRONEOUS BY LMSA AGENTS 10 24 12
ADVISORY OPINIONS 05 16 00
AGENCY
   Authority to Exclude Emps from EO 05 08 00
   Directives, ULP 35 04 04; 35 08 04
   Facilities for Campaigning 25 08 16
   Petition (RA) 10 04 08
   Regulations Not Binding on A/S 10 04 16; 35 04 04; 25 08 16
   Rules on Campaigning 25 08 16

Specific employee classifications or categories, such as "Accountant" or "Temporary Employee," are indexed under "EMPLOYEE CATEGORIES AND CLASSIFICATIONS."

6-30-75 143
AGENT - PRINCIPAL

AGREEMENT

Accretion 10 24 12
Approval Pending at Higher Agency Level 10 24 12
Bar to Petition 10 24 12
Bar, Unilateral Waiver of Extension as ULP 35 08 04
Indefinite Duration 10 24 12
Interpretation 30 28 00
Premature Extension 10 24 12
Refusal to Sign 35 28 00
Terminable at Will 10 24 12
Unilateral Termination 35 28 00

AMENDMENT

Certification 10 04 20
Complaint 30 08 00; 30 12 00; 30 16 00
Petition 15 08 08
Recognition 10 04 20

ANTI-UNION LITERATURE 35 08 04; 35 08 08

APPROPRIATE UNIT 20 04 00 to 20 12 00

Accretion 20 16 08
Activity-wide 20 12 08
Agency Regulations Not Binding on A/S 20 04 16

144
<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency-wide</td>
<td>20 12 04</td>
</tr>
<tr>
<td>Area-wide</td>
<td>20 12 36</td>
</tr>
<tr>
<td>Base-wide</td>
<td>20 12 48</td>
</tr>
<tr>
<td>Branch-wide</td>
<td>20 12 44</td>
</tr>
<tr>
<td>City-wide</td>
<td>20 08 16</td>
</tr>
<tr>
<td>Clarification</td>
<td>25 20 00</td>
</tr>
<tr>
<td>Command-wide</td>
<td>20 12 16</td>
</tr>
<tr>
<td>Community of Interest</td>
<td>20 04 04</td>
</tr>
<tr>
<td>Criteria</td>
<td>20 04 00</td>
</tr>
<tr>
<td>Directorate-wide</td>
<td>20 12 12</td>
</tr>
<tr>
<td>District-wide</td>
<td>20 12 40</td>
</tr>
<tr>
<td>Division-wide</td>
<td>20 12 32</td>
</tr>
<tr>
<td>Effective Dealings</td>
<td>20 04 08</td>
</tr>
<tr>
<td>Efficiency of Operations</td>
<td>20 04 12</td>
</tr>
<tr>
<td>Eligibility</td>
<td>20 16 12</td>
</tr>
<tr>
<td>Extent of Organization</td>
<td>20 04 04</td>
</tr>
<tr>
<td>Field-wide</td>
<td>20 12 24</td>
</tr>
<tr>
<td>Geographic Scope</td>
<td>20 08 00</td>
</tr>
<tr>
<td>Headquarters-wide</td>
<td>20 12 20</td>
</tr>
<tr>
<td>History of Bargaining</td>
<td>20 04 08; 20 12 00</td>
</tr>
<tr>
<td>Multi-Installation</td>
<td>20 12 56</td>
</tr>
<tr>
<td>Nation-wide</td>
<td>20 08 08</td>
</tr>
<tr>
<td>Occupational Classifications</td>
<td>20 12 64</td>
</tr>
<tr>
<td>One Employee</td>
<td>05 04 00</td>
</tr>
<tr>
<td>Organizational Scope</td>
<td>20 12 00</td>
</tr>
</tbody>
</table>
Pattern at Similar Activities
Previous Certification 20 04 20
Relevance of Units Elsewhere 15 12 00
Region-wide 20 12 28
Residual Employees 20 16 16
Scope 20 08 00; 20 12 00; 20 16 00;
Section-wide 20 12 52
Self-Determination 20 16 20
Severance 20 16 04
Single Employee 05 04 00
Single Installation 20 12 60
State-wide 20 08 12
Stipulations Not Binding on A/S 20 04 16
Supervisors 10 32 00
Supervisory Unit 20 16 24
World-wide 20 08 04

ARBITRATION
Cancellation as ULP 35 08 04; 35 24 00; 35 28 00
Effect on ULP 30 28 00

AREA ADMINISTRATOR (AREA DIRECTOR)
Authority for Approval of Consent Agreement 10 40 00
Withdrawal of Approval of Consent Agreement 10 40 00

146 6-30-75
ASSISTANT SECRETARY

Advisory Opinions 05 16 00
Agents as Witnesses 05 12 04
Authority 05 08 00; 55 08 04
Documents at Hearings 05 12 04
Jurisdiction 05 08 00
Role of 05 08 00

ATTORNEYS

Conflict of Interest 10 32 00

AUTHORITY OF

Agency 05 08 00; 35 04 04
AA 10 40 00
A/S 05 08 00; 55 08 04
HO 15 04 00
ARD 10 40 00

AUTOMATIC RENEWAL CLAUSE

10 24 12

- B -

BAD FAITH NEGOTIATIONS 35 28 00

BALLOT
See: ELECTIONS

BARGAINING
See: NEGOTIATIONS

BARGAINING HISTORY

BARS TO PETITION

Agreement 10 24 12

6-30-75 147
BARS TO PETITION (cont.)

Certification 10 24 08
Election 10 24 04

BILL OF RIGHTS

Campaigning in Lab Org Officer Election 55 12 08
Candidacy 55 08 12; 55 12 04; 55 12 08
Complaint Dismissal Criteria 55 08 08
Complaint Procedure 55 08 00
Conflict of Interest, Lab Org Employee and Member 55 12 04; 55 12 08
Convention Delegates 55 08 12; 55 12 04
Convention Participation 55 12 04
Delegates, Convention 55 08 12; 55 12 04
Election, Certification of 55 08 12
Employee - Members of Lab Org 55 12 04; 55 12 08
Equal Rights 55 12 04
Exhaustion of Remedies 55 08 08
Free Speech and Assembly 55 12 08
Hearing Requisites 55 08 08
Lab Org Off Election
   Campaigning 55 12 08
   Candidacy 55 08 12; 55 12 04; 55 12 08
   Violations, Alleged 55 08 12
Membership Meetings 55 12 04
BILL OF RIGHTS (cont.)

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mootness</td>
<td>55 08 08</td>
</tr>
<tr>
<td>Officer, Lab Org</td>
<td>55 12 04</td>
</tr>
<tr>
<td>Procedure</td>
<td>55 08 08</td>
</tr>
</tbody>
</table>

BINDING AGREEMENTS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>24</td>
</tr>
<tr>
<td>12</td>
<td></td>
</tr>
</tbody>
</table>

BURDEN OF PROOF

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal Security Exclusions</td>
<td>15 12 00</td>
</tr>
<tr>
<td>Objections to Election</td>
<td>25 08 08</td>
</tr>
<tr>
<td>Rep Unit Determinations</td>
<td>15 12 00</td>
</tr>
<tr>
<td>ULP Cases</td>
<td>30 08 00; 30 12 24 35 12 00</td>
</tr>
</tbody>
</table>

- C -

CAMPAIGN

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lab Org Off Election</td>
<td>55 12 08</td>
</tr>
<tr>
<td>Rep Case</td>
<td></td>
</tr>
<tr>
<td>Literature</td>
<td>25 08 12; 25 08 16; 25 08 20; 35 08 08</td>
</tr>
<tr>
<td>Misrepresentation</td>
<td>25 08 20</td>
</tr>
<tr>
<td>Work Hours</td>
<td>25 08 16</td>
</tr>
</tbody>
</table>

CAMPAIGN LITERATURE

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 08 12; 25 08 16; 25 08 20; 35 08 08</td>
<td></td>
</tr>
</tbody>
</table>

CANDIDACY, LAB ORG OFFICER

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>55 08 12; 55 12 04; 55 12 08</td>
<td></td>
</tr>
</tbody>
</table>

"CARVE-OUT"

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 16 04</td>
<td></td>
</tr>
</tbody>
</table>

CATEGORIES OF EMPS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 20 00</td>
<td></td>
</tr>
</tbody>
</table>

CEASE AND DESIST ORDERS

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>45 00 00; 50 00 00</td>
<td></td>
</tr>
</tbody>
</table>

6-30-75
CERTIFICATION

Amendment of 10 04 20
Bar to Petition 10 24 08
Revocation of 25 16 00

CHALLENGES TO

Ballot 25 12 08
Eligibility 25 12 12
Intervention 10 12 00
Showing of Interest 10 16 00
Status as Lab Org 10 20 00
Stipulations 20 12 04
Voter 20 20 00; 25 12 04

CHANGES, NAME OF ACTIVITY OR REPRESENTATIVE 10 04 20

CHARGE 30 04 00; 30 08 00

CHECKOFF REVOCATION BY ACTIVITY 35 24 00; 35 28 00; 45 04 00

CIVIL SERVICE COMMISSION

EO Sec. 25(a) Responsibilities 10 32 00
Federal Personnel Work 05 08 00; 20 12 00
Guidance 35 04 04

CLARIFICATION OF UNIT

Clarification Determinations 25 20 00
Procedure 10 04 16

CLASSIFICATIONS

See: EMP CATEGORIES AND CLASSIFICATIONS

COLLATERAL ISSUES

10 16 00 6-30-75
**COLLECTIVE BARGAINING**

See also: NEGOTIATIONS

| History | 20 04 08; 20 04 12; 20 16 04 |
| Community of Interest | 20 04 04 |
| Companion Cases | 05 20 00; 30 28 00 |

**COMPLAINT**

See also: UNFAIR LABOR PRACTICES; STANDARDS OF CONDUCT

| Standards of Conduct | 55 00 00 |
| Procedure | 55 08 00 |
| ULP | 30 00 00 |
| Amendment | 30 08 00; 30 12 00; 30 16 00 |
| Investigation | 30 08 00 |
| Limited to Allegations | 30 12 00 |
| Motion to Dismiss | 30 04 00 |
| Pre-Complaint Requirements | 30 08 00 |
| Requisites | 30 04 00 |
| Rulings of ALJs | 30 12 04 |
| Timeliness | 30 08 00 |
| Violation Not Specifically Alleged | 30 12 04 |

**COMPLIANCE WITH DECISION AND ORDER**

| 45 00 00; 50 00 00 |

**COMPOSITION OF UNITS**

| 20 08 00; 20 12 00; 20 16 00 |

**CONCURRENT RELATED CASES**

| 05 20 00; 30 28 00 |

**CONDUCT OF ELECTION**

| 25 08 08 |

**CONFLICT OF INTEREST**

**Attorneys**

| 10 32 00 |

6-30-75
CONFLICT OF INTEREST (cont.)

Employee of Lab Org and Member 55 12 08
Mgt of Lab Org and Fed Employee 10 32 00
Mgt Off and Lab Org Role 10 32 00

CONSENT AGREEMENT

AA's Authority to Approve 10 40 00
AA's Withdrawal of Approval 10 40 00
Refusal to Sign 10 12 00

CONTINUANCE OF HEARING 15 04 00

CONTRACT BAR 10 24 12

CONVENTION

Delegates 55 08 12; 55 12 04
Participation 55 12 04

COOPERATION OF PARTIES 15 20 00

COVERAGE OF EO 05 08 00

CRAFT SEVERANCE 20 16 04

CROSS EXAMINATION, FAILURE TO ALLOW 15 12 00

CURRENT REPRESENTATIVE STATUS OF PETITIONER 10 28 00

CU PETITION 10 04 16; 10 24 08

- D -

DECERTIFICATION 10 04 12

DEFINITIONS

Defunctness 05 04 00

See also: EMP CATEGORIES AND CLASSIFICATIONS

6-30-75
DEFINITIONS (cont.)

Lab Org 05 04 00
Management Official 05 04 00
Non-Employee 20 20 00 Vista Volunteers
Professional Employee 05 04 00
Supervisors 05 04 00
Unit 05 04 00

DEFUNCTNESS 05 04 00; 10 24 04; 10 24 12; 10 44 00

DELEGATES, CONVENTION 55 08 12; 55 12 04; 55 12 08

DETERMINATION OF APPROPRIATE UNIT See: APPROPRIATE UNITS

DILATORY CONDUCT 35 08 04; 35 28 00

DISCLAIMER OF INTEREST 10 04 12
See: REP CASES; ULP; STANDARDS OF CONDUCT

DISQUALIFICATION AS LAB ORG 10 20 00

DISTRIBUTION OF LITERATURE See: CAMPAIGN LITERATURE

DOCUMENTS AT HEARING, LMSA 05 12 04

DR PETITION 10 04 12

DUES CHECKOFF REVOCATION BY ACTIVITY 35 24 00; 35 28 00; 45 16 00

DUTY TO BARGAIN See: NEGOTIATIONS

- E -

EFFECTIVE DEALINGS 20 04 08

EFFICIENCY OF OPERATIONS 20 04 12
### ELECTION BAR TO PETITION

**ELECTIONS**

<table>
<thead>
<tr>
<th>Lab Org Officers</th>
<th>10 24 04</th>
</tr>
</thead>
<tbody>
<tr>
<td>See also: CHALLENGES: AND OBJECTIONS TO ELECTION</td>
<td></td>
</tr>
</tbody>
</table>

| 55 12 08 |
| Campaigning |
| Candidacy |
| 55 08 12; 55 12 04; 55 12 08 |

| 55 08 12 |
| Complaint Procedure |

**Representation**

| 25 12 08 |
| Ballot Markings |

| See: OBJECTIONS TO ELECTION |

| Challenges |
| 20 16 04; 25 04 16 |

| 10 04 12 |
| Craft Severance |
| Decertification |

| 20 16 12 (See also: EMP CATEGORIES AND CLASSIFICATIONS) |
| Eligibility |

| 10 32 00 |
| Exclusion from Ballot |

| 25 08 08; 25 12 08 |
| Mail Ballot |

| 10 12 00 |
| Position on Ballot |

| 25 04 00 |
| Procedure |

| 25 04 04 |
| Prof Emps |

| 25 04 12 |
| Role of Observers |

| 10 12 00 |
| Refusal to Sign Consent Agreement |

| 25 16 00 |
| Rerun |

---

**154**

---

**6-30-75**
ELECTIONS (cont.)

Representation (cont.)

Runoff 25 08 08
Self-Determination 25 08 08
Separate Voting Groups 25 04 00
Severance 20 16 04; 25 04 16
Tally 25 08 08
Tie Vote 25 16 00
Voter Intent 25 12 00
Voting Groups 25 04 00
Voting Procedures 25 04 04

ELIGIBILITY

See also: CHALLENGES; AND EMP CATEGORIES AND CLASSIFICATIONS

Seasonal Emps. 20 16 12

EMPLOYEE CATEGORIES AND CLASSIFICATIONS

Accounting Supv 20 20 00 Supv
Administrative Service Asst. 20 20 00 Supv
Aircraft Instrument Control System Mech (Leader) 20 20 00 Supv
Asst Sect Supv 20 20 00 Supv
Asst Stock Control Supv 20 20 00 Supv
Asst Supv 20 20 00 Supv
Asst Utility Supv 20 20 00 Supv
Business Mgt Analysts 20 20 00 Mgt Off
Cartographic Tech 20 20 00 Supv
Clerk-Typist 20 20 00 Conf Emps
Club Mgt Spec  20 20 00 Mgt Off
Commissioned Bank Examiners  20 20 00 Supv
Computer Oper  20 20 00 Supv
Computer Programmer Team Leader  20 20 00 Supv
Confidential Emps  20 20 00
Firefighters  20 20 00 Guards
Food Act Supv  20 20 00 Supv
General Schedule  20 20 00
Gen Supply Asst  20 20 00 Supv
Guards  20 20 00 , 10 32 00
Health Tech  20 20 00 Supv
Loan Spec  20 20 00 Mgt Off
Maintenance Chief  20 20 00 Supv
Mgt Off  20 20 00 Mgt Off Supv
Millwright  20 20 00 Supv
Nonappropriated Fund Emps  20 20 00
Non-Professional Emps  20 20 00 Prof Emps
Non-Project Leaders  20 20 00 Supv
Office Supv  20 20 00 Supv
Physical Science Administrator  20 20 00 Mgt Off
Police  20 20 00 Guards
Procurement Analyst  20 20 00 Mgt Off
Production Controller  20 20 00 Supv
Prof Emps  05 04 00; 20 04 04; 20 20 00; 25 04 04
Program Mgr  20 20 00 Supv
Project Leader  20 20 00 Supv
<table>
<thead>
<tr>
<th>Role</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchasing Agent</td>
<td>Supv</td>
</tr>
<tr>
<td>Seasonal Emp</td>
<td>Temp Emp</td>
</tr>
<tr>
<td>Secretary</td>
<td>Conf Emp</td>
</tr>
<tr>
<td>Sect Supv</td>
<td>Supv</td>
</tr>
<tr>
<td>Sr Buyer</td>
<td>Supv</td>
</tr>
<tr>
<td>Sr Tech</td>
<td>Supv</td>
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<tr>
<td>Sr Utility Man</td>
<td>Supv</td>
</tr>
<tr>
<td>Shipping Supv</td>
<td>Supv</td>
</tr>
<tr>
<td>Stock Control Supv</td>
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<tr>
<td>Supervisors</td>
<td>Mgt Off</td>
</tr>
<tr>
<td>Supply Tech</td>
<td>Supv</td>
</tr>
<tr>
<td>Systems Auditor</td>
<td>Mgt Off</td>
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<tr>
<td>Team Leader</td>
<td>Supv</td>
</tr>
<tr>
<td>Temp Emps</td>
<td></td>
</tr>
<tr>
<td>Topographic Field Asst</td>
<td>Temp Emps</td>
</tr>
<tr>
<td>Training Tech</td>
<td>Supv</td>
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<td>Utility Supv</td>
<td>Supv</td>
</tr>
</tbody>
</table>

**EMPLOYEE ORGANIZATION**

**EMPLOYEE RIGHTS**

**EMPLOYEE STATUS: EFFECT ON ULP**

**EQUAL RIGHTS IN LAB ORG**

**ERRONEOUS ADVICE BY LMSA AGENTS**

**EVIDENCE**

- Adequacy of Record
- A/S Documents at Hearings
- A/S Pers as Witnesses

6-30-75
EVIDENCE (cont.)

Burden of Proof
Documents of A/S
Exclusion
Improper Acceptance
Limitations
Materiality
Post-Hearing Submission
Record Sufficiency
Rejection of Evidence
Relevance of Evidence
Reopening Record

EXCLUSIONS FROM APPROPRIATE UNITS

EXCLUSIONS FROM EO COVERAGE

EXCLUSIVE RECOGNITION, WAIVER OF

EXCLUSIVE RECOGNITION UNDER EO 10988

EXCLUSIVE REPRESENTATIVE PETITIONER

EO 10988, TRANSITIONAL PROBLEMS

EO 11491, AND AS AMENDED

Coverage

Sec. 1(b)  Empls Participation in Mgt of Lab Org

2(b) "Employee"

2(c) "Supervisor"

2(d) "Guard"

See: BURDEN OF PROOF

05 12 04

25 08 08; 15 12 00

30 12 00

15 12 00

15 12 00

15 24 00

15 24 00

20 04 16; 15 28 00

15 12 00; 15 24 00

15 12 00; 15 24 00

15 24 00

20 20 00

05 08 00

10 28 00

05 08 00

10 28 00

05 32 00

05 08 00

10 32 00; 35 08 04

20 20 00 Vista Volunteers, Commissioned Off Corps, U.S. Public Health Service

30 24 00

20 04 16

158

6-30-75
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(e)</td>
<td>&quot;Labor Organization: 05 04 00</td>
</tr>
<tr>
<td>2(e)(2)</td>
<td>Status as Lab Org 40 20 00; 50 00 00</td>
</tr>
<tr>
<td>3(b)(3)</td>
<td>National Security 05 08 00</td>
</tr>
<tr>
<td>3(b)(4)</td>
<td>Internal Agency Security 05 08 00; 15 12 00</td>
</tr>
<tr>
<td>3(d)</td>
<td>Unions of Lab Rel Pers. 10 32 00</td>
</tr>
<tr>
<td>10(b)</td>
<td>Criteria for Appropriate Unit 20 04 00 to 20 20 00</td>
</tr>
<tr>
<td>10(b)(1)</td>
<td>&quot;Management Official&quot;; &quot;Supervisor&quot; 20 20 00</td>
</tr>
<tr>
<td>10(b)(2)</td>
<td>Fed Pers Work 20 20 00; 05 08 00</td>
</tr>
<tr>
<td>10(b)(3)</td>
<td>Guards 10 32 00; 20 20 00; 20 16 04</td>
</tr>
<tr>
<td>10(b)(4)</td>
<td>Prof Emps 20 04 04; 20 20 00; 25 04 04; 25 12 08</td>
</tr>
<tr>
<td>10(c)</td>
<td>Non-Guard Union 10 32 00; 20 16 04</td>
</tr>
<tr>
<td>11(c)(4)</td>
<td>Negotiability 35 28 00</td>
</tr>
<tr>
<td>13(a)</td>
<td>Grievance Procedures 60 08 00</td>
</tr>
<tr>
<td>13(b)</td>
<td>Arbitration 60 12 00</td>
</tr>
<tr>
<td>13(d)</td>
<td>Question on Grievability or Arbitrability 60 16 00</td>
</tr>
<tr>
<td>13(e)</td>
<td>Conformity of Agreements to EO 60 20 00</td>
</tr>
<tr>
<td>19(a)(1)</td>
<td>Interference by Agency 35 04 04; 35 08 00</td>
</tr>
<tr>
<td>19(a)(2)</td>
<td>Discrimination by Agency 35 12 00</td>
</tr>
<tr>
<td>19(a)(3)</td>
<td>Improper Assistance 35 16 00</td>
</tr>
<tr>
<td>19(a)(4)</td>
<td>Discrimination for Complaint, Testimony 35 20 00</td>
</tr>
<tr>
<td>19(a)(5)</td>
<td>Refusal to Grant Recognition 35 24 00</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------------------------------------------</td>
</tr>
<tr>
<td>19(a)(6)</td>
<td>Agency Refusal to Confer, Consult, Negotiate</td>
</tr>
<tr>
<td>19(b)(1)</td>
<td>Interference by Lab Org</td>
</tr>
<tr>
<td>19(b)(4)</td>
<td>Strike</td>
</tr>
<tr>
<td>19(b)(6)</td>
<td>Union Refusal to Confer, Consult, Negotiate</td>
</tr>
<tr>
<td>19(d)</td>
<td>Grievance or Appeals Procedure</td>
</tr>
<tr>
<td>20</td>
<td>Use of Official Time</td>
</tr>
<tr>
<td>24(2)</td>
<td>Units of Management Officials or Supervisors</td>
</tr>
<tr>
<td>25(a)</td>
<td>CSC Responsibilities</td>
</tr>
</tbody>
</table>

**Exhaustion of Remedies, Standards of Conduct**

**Extent of Organization**

- **F** -

**Failure to Cooperate**

**Failure to Serve Documents**

**Fed Pers Work**

**Fixed Term Agreement**

**Formal Hearings**

See: **Hearings**

**Fragmentation of Unit**

**Free Speech**

- **G** -

**Representation Election**

**Lab Org Members**

**Good Faith**

**6-30-75**

160
GRIEVABILITY AND ARBITRABILITY

General

GRIEVANCES

Effect on ULP

Unilateral Adjustment

GUARDS

Mgt of Non-Guard Lab Org

Qualifications of Lab Org to Represent

- H -

HANDBILLING

HEAD OF AGENCY AUTHORITY TO EXCLUDE EMPS FROM EO

HE (ALJ) REPORT AND RECOMMENDATIONS AND EXCEPTIONS

Credibility Resolutions

Objections

ULP

HEARINGS

Acceptance into Evidence

Adequacy of Record

Admissibility of Evidence

A/S Documents at Hearings

A/S Pers as Witnesses

Authority of HO

Bar to Petition

Burden of Proof

See: CAMPAIGN LITERATURE

See: BURDEN OF PROOF

6-30-75

161
<table>
<thead>
<tr>
<th>Issue</th>
<th>Time</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collateral Issues</td>
<td>10 16 00</td>
<td></td>
</tr>
<tr>
<td>Continuance of Hearing</td>
<td>15 04 00</td>
<td></td>
</tr>
<tr>
<td>Cooperation of Parties</td>
<td>15 20 00</td>
<td></td>
</tr>
<tr>
<td>Cross Examination, Failure to Allow</td>
<td>15 12 00</td>
<td></td>
</tr>
<tr>
<td>Documents</td>
<td>15 12 00</td>
<td></td>
</tr>
<tr>
<td>Documents, LMSA</td>
<td>15 12 04</td>
<td></td>
</tr>
<tr>
<td>Evidence</td>
<td>See: EVIDENCE</td>
<td></td>
</tr>
<tr>
<td>Exclusion of Testimony</td>
<td>25 08 08</td>
<td></td>
</tr>
<tr>
<td>Failure to Cooperate</td>
<td>15 20 00; 30 12 28</td>
<td></td>
</tr>
<tr>
<td>HE (ALJ) Report, No Exceptions</td>
<td>30 16 00</td>
<td></td>
</tr>
<tr>
<td>Inadequate Record</td>
<td>15 28 00; 20 04 16</td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>15 08 04</td>
<td></td>
</tr>
<tr>
<td>Materiality</td>
<td>15 12 00</td>
<td></td>
</tr>
<tr>
<td>Motions</td>
<td>15 08 00</td>
<td></td>
</tr>
<tr>
<td>Non-Cooperation of Parties</td>
<td>15 20 00; 30 12 28</td>
<td></td>
</tr>
<tr>
<td>Official Time to Attend</td>
<td>05 08 00; 15 20 00; 35 08 04; 35 28 00</td>
<td></td>
</tr>
<tr>
<td>Post-Hearing Submissions</td>
<td>15 24 00</td>
<td></td>
</tr>
<tr>
<td>Postponement Motion</td>
<td>15 08 04</td>
<td></td>
</tr>
<tr>
<td>Record Sufficiency</td>
<td>15 24 00; 20 04 16</td>
<td></td>
</tr>
<tr>
<td>Refusal to Furnish Information to HO</td>
<td>15 20 00</td>
<td></td>
</tr>
<tr>
<td>Rejection of Evidence</td>
<td>15 12 00</td>
<td></td>
</tr>
<tr>
<td>Relevance of Evidence</td>
<td>15 12 00</td>
<td></td>
</tr>
<tr>
<td>Remand</td>
<td>15 28 00</td>
<td></td>
</tr>
<tr>
<td>Reopening of Record</td>
<td>15 24 00</td>
<td></td>
</tr>
</tbody>
</table>
HEARINGS (cont.)

Request for LMSA Documents 05 12 04
Request for LMSA Pers as Witnesses 05 12 04
Role of HO 15 04 00
Rulings of ALJs 30 12 04
Showing of Interest Challenge 10 16 00
Stipulated Record 30 20 00
Stipulations 20 04 16; 15 24 00
Submissions after Hearing 15 24 00
Supplemental Briefs 15 24 00
Testimony Exclusion 25 08 08
Time Allowed for Filing Supplemental Briefs 15 24 00
Transcript Correction 15 24 00
Witnesses 15 12 00
  LMSA Staff 05 12 04
  Official Time 05 08 00; 15 20 00;
                   35 08 04; 35 28 00
Written Opening Statement 15 12 00

HISTORY OF BARGAINING 10 24 12; 20 04 08

- I, J, K -

INADEQUATE SHOWING OF INTEREST See: SHOWING OF INTEREST
INAPPROPRIATE UNIT 20 04 00 to 20 20 00
INCUMBENT LAB ORG PETITIONER 10 28 00
INSTRUCTORS, STATUS AND RIGHTS 30 24 00
INSUFFICIENT RECORD 15 28 00; 20 04 16

6-30-75
INSULATED PERIOD

INSURANCE AS CAMPAIGN BENEFIT

INTEREST, SHOWING OF

INTERFERENCE WITH EMPS RIGHTS

INTERNAL SECURITY OF AGENCY

INTERVENOR

INTERVENTION

Challenge to

Showing of Interest

Status as Lab Org

Dismissal

Incumbent Lab Org

Intervenor

Notification to Potential Intervenors

Opportunity to Withdraw

Post-Decisional Intervention

Showing of Interest

Timeliness

INVESTIGATION, ULP COMPLAINTS

JOB CLASSIFICATIONS

JURISDICTION OF A/S

See: INTERVENTION

See: EMP CATEGORIES AND CLASSIFICATIONS

55 08 04; 05 08 00

10 24 12

25 08 20; 25 08 24

10 16 00; 20 16 08

35 08 00; 25 08 00

05 08 00; 15 12 00

10 12 00; 20 24 08; 20 24 12

10 08 00

20 24 12

20 24 04

10 16 00; 20 24 08

10 12 00

30 08 00

6-30-75
LMSA

Agents

As Witnesses 05 12 04
Erroneous Advice 10 24 12
Documents at Hearing 05 12 04

LABOR ORGANIZATION

Bill of Rights See: BILL OF RIGHTS
Challenge to Status 10 20 00
Definition 05 04 00
Incumbent Lab Org Petitioner 10 28 00
Intervenor See: INTERVENTION
Legislative - Executive Branch Representation 05 08 00
Management of 10 32 00
Meetings 55 12 04
Officer Elections See: ELECTIONS
Paid Employee-Members 55 12 04; 55 12 08
Qualifications to Represent Specified Categories of Emps 10 32 00
Remedial Orders Against
Sec. 19(b)(1) 40 08 00
19(b)(4) 40 20 00
19(b)(6) 40 28 00
Standards of Conduct 05 08 00; 05 20 00;
10 20 00; 55 00 00
LABOR ORGANIZATION (cont.)

Status as
ULP

10 20 00
35 00 00; 40 00 00

LEGISLATIVE - EXECUTIVE BRANCH
LAB ORG

05 08 00

LITERATURE

See: CAMPAIGN LITERATURE

- M -

MGT OFF

05 04 00

Conflict of Interest

10 32 00

MARKINGS ON BALLOT

25 12 08

MEMBERSHIP IN A LAB ORG, DENIAL OF

40 32 00

MEMBERSHIP PINS, BUTTONS

35 08 04

MERGER AT ACTIVITY

10 04 08; 10 04 20;
20 16 08

MISREPRESENTATION IN CAMPAIGN

25 08 20

MOONLIGHTERS

20 20 00 Off-Duty Mil Emps

MOOTNESS

Standards of Conduct

55 08 08

ULP

30 28 00; 35 20 00

MOTIONS

Amendment of Petition

15 08 08

Dismissal of Petition

15 12 00

For Witnesses and/or Production
of Documents

15 12 00

Post-Hearing Submissions

15 24 00
MOTIONS (cont.)

Postponement of Hearing 15 08 04
Reopening of Record 15 24 00
Rep Cases, General 15 08 04
ULP 30 12 00

- N -

NATIONAL GUARD, EO COVERAGE 05 08 00
NLRB DECISIONS, ROLE OF 05 24 00
NATIONAL SECURITY EMPS 05 08 00
NEGOTIABILITY 35 28 00
NEGOTIATIONS 35 28 00
NEW SHOWING OF INTEREST, POST-DECISIONAL 20 24 08
90-60 DAY "OPEN" PERIOD 10 24 12
NO-DISTRIBUTION RULE 35 08 08
NO-SOLICITATION RULE 35 08 12
NON-ACCESS TO WORK AREAS BY NON-EMPS 25 08 16; 35 08 04
NON-COOPERATION OF PARTIES 15 20 00; 30 12 28
NONWORK AREA CAMPAIGNING 35 08 08; 35 08 12
NONWORK TIME CAMPAIGNING 35 08 08; 35 08 12

NOTICES

Compliance with ULP Decision and Order 45 00 00; 50 00 00
Mailing of ULP Notice 50 00 00
Notice of Petition 10 08 00
NOTICES (cont.)

Post-Hearing Notice of Unit Determination 20 24 04

ULP 45 00 00; 50 00 00

NOTIFICATION OF COMPLIANCE 10 08 00

NOTIFICATION TO POTENTIAL INTERVENORS 45 00 00; 50 00 00

NURSES 20 16 04

- 0 -

OBJECTIONS TO REP ELECTION 25 08 00 (see also: UNFAIR LABOR PRACTICES)

Access to Employees 25 08 16

Activity Facilities 25 08 16

Activity Interference 25 08 16; 25 08 28

Agency Rules on Campaigning 25 08 16

Anti-Union Literature 35 08 04; 35 08 08

Burden of Proof 25 08 08

Campaign Misrepresentation 25 08 20

Challenges, Distinguished from 25 12 12

Conduct of Election 25 08 28

Electioneering 20 16 04

Free Speech 25 08 16

HE (ALJ) Report 25 08 08; 25 08 16

Impact on Election 25 08 12 to 25 08 20; 25 08 08; 25 08 24

Lack of Specificity 25 08 08

Mail Facilities of Activity 20 12 00
OBJECTIONS TO REP ELECTION (cont.)

Non-Employee Access to Activity Premises 25 08 16
Non-Intervening Union 25 08 16
Procedure 25 08 08
Promises of Benefit 25 08 24
Report on Objections, HE (ALJ) 25 08 08; 25 08 16
Runoff Election 25 08 08
Service 05 28 00
Side Agreements 25 08 08
Timeliness 25 08 08
Timing of Objectionable Conduct 25 08 12

OBLIGATIONS OF PARTIES

Availability of Witnesses 15 20 00; 30 08 00; 35 08 04; 35 12 00
Bargaining See: NEGOTIATIONS
Burden of Proof See: BURDEN OF PROOF
Cooperation in Proceedings 15 20 00
Furnishing Information 30 08 00
Official Time for Witnesses 15 20 00; 35 08 04; 35 12 00

OCCUPATIONAL HEALTH NURSE 25 04 04; 25 12 08
OFF-DUTY HOURS NEGOTIATIONS 35 28 00
OFF-DUTY MIL EMPS 20 04 16; 20 20 00
OFFICIAL TIME FOR WITNESSES 05 36 00; 15 20 00; 35 08 04; 35 12 00

"OPEN PERIOD" 10 24 12

6-30-75
"OPEN SEASON"

OPPORTUNITY TO WITHDRAW PETITION

- P, Q -

PERS WORK, FED

PETITIONER, STATUS OF

PETITIONS

AC: Amendment, Recognition or Certification

Agency Doubt of Representative's Status (RA)

Amendment

Clarification of Unit (CU)

Decertification (DR)

Dismissal

DR: Decertification

Opportunity to Withdraw

Petitioner with Exclusive Recognition

RA: Agency Doubt of Representative's Status

Service

POSITION ON BALLOT

POST-DECISIONAL

Intervention

Notices
POST-DECISIONAL (cont.)

Showing of Interest 20 24 08
Withdrawal 20 24 12

POST-HEARING
Rep Cases 15 24 00
ULP 15 24 00

POSTING
ULP 30 16 00

See: NOTICES

PRE-COMPLAINT REQUIREMENTS

Standards of Conduct 55 08 08
ULP 30 04 00; 30 08 00

PREMATURE EXTENSIONS OF AGREEMENT

PREREQUISITES 10 24 12
See: REQUIREMENTS FOR

PRINCIPAL-AGENT

PRIVATE SECTOR LAW, ROLE OF

PROCEDURE

PROF EMPS 05 04 00; 25 04 04

PROMISES OF BENEFIT

PROPAGANDA

QUALIFICATIONS OF LAB ORG TO
REPRESENT SPECIFIED CATEGORIES
OF EMPS 10 32 00

QUESTIONS CONCERNING BALLOT

RA PETITION 25 12 08

6-30-75 10 04 08
RECORD

See: HEARINGS

REFUSAL TO

Bargain 35 28 00
Cooperate 15 20 00; 30 08 00
Sign Consent Agreement 10 12 00

REGULATIONS

Agency Regulations Not Binding on A/S 20 04 16

REGULATIONS OF A/S

Sec. 202.2(f) Showing of Interest 10 16 00
202.2(g) Status of Lab Org 10 20 00
202.3(b) Certification Bar 10 24 08
202.3(c) Timeliness of Petition 10 24 00
202.3(d) Insulated Period Following Withdrawal, Dismissal 10 24 12
202.3(e) Premature Contract Extension 10 24 12
202.4(b) Notice of Petition 10 08 00
202.4(f), (g) Response to Petition 15 08 04; 15 16 00
202.5 Intervention 20 24 04; 10 12 00
202.6(d) Request for Review Service 05 28 00
202.7(c) Position on Ballot 10 12 00
202.12(k) Continuance of Hearing 15 04 00
202.20(a) Objections: Filing Service 25 08 08

05 28 00
REGULATIONS OF A/S (cont.)

Sec. 202.20(d) Objections: Burden of Proof 25 08 08

203.2 Requirements for Charge 30 04 00; 30 28 00

203.3(e) Report of Investigation 30 08 00

203.26 Compliance with A/S Order 45 04 00

204.2(a)(1) Equal Rights 55 12 04

204.2(a)(2) Free Speech and Assembly 55 12 08

204.2(a)(5) Disciplinary Action 55 08 08

204.29 Election of Officers 55 08 12

204.58 Dismissal of Standards Complaint 55 08 08

204.63 Complaints, Election of Officers 55 08 12

205.5(a) Stipulated Record 30 20 00

REJECTION OF EVIDENCE 15 12 00

RELATED CASES, CONCURRENT 05 20 00

RELEVANCE OF EVIDENCE 15 12 00

REMAND 15 28 00

REMEDY: ULP

Against Agencies 45 00 00; 45 04 00

Against Lab Org 45 08 00

REORGANIZATION OF ACTIVITY 10 04 08; 10 04 20;
20 16 28

REPORT OF INVESTIGATION, ULP 30 08 00

6-30-75 173
<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AC Petition</td>
<td>10 04 20</td>
</tr>
<tr>
<td>Accretion</td>
<td>20 16 08</td>
</tr>
<tr>
<td>Activity Refusal to Respond to Petition</td>
<td>15 16 00</td>
</tr>
<tr>
<td>Agency Petition (RA)</td>
<td>10 04 08</td>
</tr>
<tr>
<td>Agency Regulations Not Binding on A/S</td>
<td>20 04 16</td>
</tr>
<tr>
<td>Agreement Bar</td>
<td>10 24 12</td>
</tr>
<tr>
<td>Amendment</td>
<td></td>
</tr>
<tr>
<td>Certification</td>
<td>10 08 20</td>
</tr>
<tr>
<td>Petition</td>
<td>15 08 08</td>
</tr>
<tr>
<td>Recognition</td>
<td>10 04 20</td>
</tr>
<tr>
<td>Appropriate Unit</td>
<td></td>
</tr>
<tr>
<td>See: APPROPRIATE UNIT</td>
<td></td>
</tr>
<tr>
<td>AA's Action</td>
<td>10 40 00</td>
</tr>
<tr>
<td>Burden of Proof</td>
<td>15 12 00</td>
</tr>
<tr>
<td>Certification</td>
<td>25 16 00</td>
</tr>
<tr>
<td>Amendment</td>
<td>10 04 20</td>
</tr>
<tr>
<td>Bar</td>
<td>10 24 08</td>
</tr>
<tr>
<td>Challenges</td>
<td></td>
</tr>
<tr>
<td>See: CHALLENGES</td>
<td></td>
</tr>
<tr>
<td>Clarification of Unit (CU)</td>
<td>25 20 00; 10 04 16</td>
</tr>
<tr>
<td>Community of Interest</td>
<td>20 04 04</td>
</tr>
<tr>
<td>Concurrent Related Cases</td>
<td>05 20 00</td>
</tr>
<tr>
<td>CU Petition</td>
<td>10 04 16</td>
</tr>
<tr>
<td>Topic</td>
<td>Dates</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Current Representative</td>
<td>10 28 00</td>
</tr>
<tr>
<td>Status of Petitioner</td>
<td></td>
</tr>
<tr>
<td>Decertification</td>
<td>10 04 12</td>
</tr>
<tr>
<td>DR Petition</td>
<td>10 04 12</td>
</tr>
<tr>
<td>Effective Dealings</td>
<td>20 04 08</td>
</tr>
<tr>
<td>Efficiency of Operations</td>
<td>20 04 12</td>
</tr>
<tr>
<td>Election Bar to Petition</td>
<td>10 24 04</td>
</tr>
<tr>
<td>Eligibility</td>
<td>20 16 12;</td>
</tr>
<tr>
<td></td>
<td>20 20 00;</td>
</tr>
<tr>
<td></td>
<td>25 12 00</td>
</tr>
<tr>
<td>Evidence</td>
<td>15 12 00</td>
</tr>
<tr>
<td>Hearing Officer Role</td>
<td>15 04 00</td>
</tr>
<tr>
<td>Intervention</td>
<td>20 24 04;</td>
</tr>
<tr>
<td></td>
<td>20 24 08;</td>
</tr>
<tr>
<td></td>
<td>10 12 00</td>
</tr>
<tr>
<td>Lab Org Status</td>
<td>10 20 00</td>
</tr>
<tr>
<td>Motions</td>
<td>15 08 00</td>
</tr>
<tr>
<td>Notice of</td>
<td></td>
</tr>
<tr>
<td>Petition</td>
<td>20 24 04;</td>
</tr>
<tr>
<td></td>
<td>10 08 00</td>
</tr>
<tr>
<td>Unit Determination</td>
<td>20 24 04</td>
</tr>
<tr>
<td>Objections</td>
<td>See: OBJECTIONS</td>
</tr>
<tr>
<td>Obligations of Parties</td>
<td>15 20 00</td>
</tr>
<tr>
<td>Opportunity to Withdraw</td>
<td>20 24 12</td>
</tr>
<tr>
<td>Petitions, Inconsistent</td>
<td>10 44 00</td>
</tr>
<tr>
<td>Petitions, Types</td>
<td>10 04 00</td>
</tr>
<tr>
<td>Policy on Consent Agreements</td>
<td>10 40 00;</td>
</tr>
<tr>
<td></td>
<td>15 28 00</td>
</tr>
<tr>
<td>Post-Hearing Submissions</td>
<td>15 24 00</td>
</tr>
</tbody>
</table>
Posting, Notice of

Petition

Unit Determination

Procedure

Elections 25 00 00
Hearings 15 00 00
Post-Election 25 00 00

Preliminary Stages 10 00 00

Qualifications to Represent
Specified Categories of Employees 10 32 00

RA Petition 10 04 08

Remand 15 28 00

Request for Review Rights 10 36 00

Residual Employees 20 16 16

Self-Determination 20 16 20; 25 04 08

Service of Documents 05 28 00

Severance 20 16 04

Showing of Interest 10 16 00; 20 24 08

Standards of Conduct 05 20 00; 10 20 00

Stipulations of Parties Not Binding on A/S 20 04 16

Timeliness 10 24 00

ULP Allegations 15 16 00

Unit Determinations 20 00 00

Voting Procedures 25 04 00
REQUEST FOR

Appearance of Witnesses

Documents

LMSA Documents

LMSA Pers as Witnesses

 Witnesses

REQUEST FOR REVIEW

New Evidence

Objections to Election

Refusal to Dismiss Petition

Service of

Showing of Interest

Status as Lab Org

REQUESTMENTS FOR

Charge

Complaint

Consent Agreement

Intervention

Petition

Unit Determination Hearings

RERUN ELECTION

RESIDUAL UNIT

RESPONSE TO PETITION

REVOCATION OF CERTIFICATION

6-30-75
ROLE OF

Agency Directives, ULP 35 04 04
Agency Head: Exclusion of Emps, EO Coverage 05 08 00
A/S 05 08 00
CSC Guidance 35 04 04
HO 15 04 00
NLRB Decisions 05 24 00

RUNOFF ELECTION 25 08 08

- S -

SECTIONS

EO

See: EXECUTIVE ORDER 11491, AND AS AMENDED

Regulations

See: REGULATIONS OF A/S

SECURITY EMPS 05 08 00

SELF-DETERMINATION ELECTION

Unit Determination 20 16 20
Voting Procedure 25 04 08

SEPARATE VOTING 25 04 00

SERVICE OF DOCUMENTS 05 28 00; 25 08 08

SEVERANCE 20 16 04

SHAM STIPULATION 20 04 16; 25 12 04; 25 16 00

SHOWING OF INTEREST

Adequacy 10 16 00; 20 24 08
Agency Mgt, Involvement In 10 16 00
SHOWING OF INTEREST (cont.)

Agreement Bar, Unilateral Waiver of Challenge at Hearing 10 16 00
Challenge to Intervenor 10 16 00; 20 24 08
Challenge to Petitioner 10 16 00
Inadequate for Larger Unit Found Appropriate 20 24 08
Post-Decisional 20 24 08
Request for Review 10 16 00
Seasonal Industries 10 16 00; 20 24 08
Validity 10 16 00

SICK-OUT 40 20 00; 50 00 00

SIDE AGREEMENTS

Elections 25 08 08
Negotiations 35 28 00

SINGLE EMPLOYEE UNIT 05 04 00

SOLICITATION OF MEMBERS 35 08 04; 35 08 12

STANDARDS OF CONDUCT 05 08 00; 05 20 00; 10 20 00; 55 00 00
See Also Specific Captions Such As: BILL OF RIGHTS; LAB ORG ELECTIONS; FREE SPEECH

Bill of Rights 55 08 08; 55 12 00
Elections 55 08 12; See Also: ELECTIONS; LAB ORG OFFICERS

Equal Rights 55 12 04
Free Speech and Assembly 55 12 08
Jurisdiction of A/S 55 08 04
STANDARDS OF CONDUCT (cont.)

Procedure 55 08 00
Rep Cases 05 20 00; 10 20 00

STATEMENT OF SERVICE OF DOCUMENTS 05 28 00

STATUS AS LAB ORG 10 20 00

STIPULATED RECORD 30 20 00

STIPULATIONS 30 20 00; 15 24 00

Of Parties Not Binding on A/S 20 04 16
Related to Challenges 25 12 04
Sham 20 04 16; 25 12 04; 25 16 00

STRIKE 40 20 00

SUBMISSIONS AFTER HEARING 15 24 00

SUPERVISORS 05 04 00

SUPERVISORS' UNIT 10 32 00

SUPPLEMENTAL BRIEFS 15 24 00

- T -

TALLY OF BALLOTS 25 08 08
TELETYPISTS 20 20 00
TEMPORARY EMPS 20 04 16
TERMINAL DATE OF AGREEMENT 10 24 12
TESTIMONY See: EVIDENCE
TIE VOTE ELECTION 25 16 00

TIMELINESS

Allegation of ULP Complaint 30 08 00
Deficiency

180 6-30-75
Complaint
   Standards of Conduct
   ULP
Correction of Transcript
Intervention
Motion to Dismiss ULP Complaint
New Evidence in Request for Review
Objections to Rep Election
Petition
Showing of Interest
Withdrawal

TRADE UNION

TRANSCRIPT

TRANSITIONAL PROBLEMS

- U -

UNFAIR LABOR PRACTICES

Agency

Access to Agency Facilities by Non-Intervenor
Directives
ULP

6-30-75
UNFAIR LABOR PRACTICES (cont.)

Agreement

  Extension  35 08 04
  Negotiation  35 08 04
  Refusal to Sign  35 28 00

Amendment of Complaint  30 12 00; 30 16 00
Anti-Union Literature  35 08 04; 35 08 08
Appropriate Unit  35 28 00

Arbitration

  Award  30 28 00
  Cancellation  35 08 04; 35 24 00; 35 28 00
  Effect of  30 28 00

Assistant to Union  35 16 00
Authority of Negotiator  35 24 00; 35 28 00
Bargaining Request  35 28 00
Burden of Proof  30 08 00; 35 12 00
By-Passing Exclusive Representative  35 28 00
Cease and Desist Orders  45 00 00; 50 00 00
Charge  30 04 00
Checkoff Revocation  35 24 00; 35 28 00; 45 04 00
CSC Guidance  35 04 04
Complainant's Obligations  30 04 00; 30 08 00; 30 12 00

Complaint  30 04 00; 30 16 00
See Also: COMPLAINT

182
6-30-75
UNFAIR LABOR PRACTICES (cont.)

Compliance 45 00 00
Counterproposals 35 28 00
Credibility Resolutions by HE (ALJ) 30 16 00
CSC Guidance 35 04 04
Dilatory Negotiations 35 28 00
Discriminatory Treatment 35 08 04
Dismissal of Complaint 30 08 00
Disparate Treatment 35 08 04
Distribution of Literature 35 08 08
Dues Allotments Revocation 35 24 00; 35 28 00; 45 16 00
Effect of Other Proceedings 05 20 00; 30 28 00
Emergency Action 35 28 00
Employee Status, Effect on ULP 30 24 00
Evidence See: EVIDENCE
Good Faith Negotiations 35 28 00
Grievance 35 28 00
Grievance or Appeals Procedure 35 32 00
Grievance, Unilateral Adjustment 35 08 04; 35 28 00
"Ground Rules" in Negotiations 35 28 00
HE (ALJ) Report, No Exceptions 30 16 00
Hearings 30 12 00; See Also: HEARINGS

Interference

Agency 35 08 00
UNFAIR LABOR PRACTICES (cont.)

Interference (cont.)

Union  
Interpretation of Agreement  
Investigation and Report  
Lab Org ULP  
Limited to Complaint Allegations  
"Make Whole" Order  
Mootness  
Motions  
Negotiability  
Negotiations  
Ground Rules  
Side Agreements  
No-Distribution Rule  
No-Solicitation Rule  
Non-Access to Work Areas  
Nonwork Area Campaigning  
Nonwork Time Campaigning  
Notification of Compliance  
Obligation to Consult, Confer or Negotiate  
Post-Hearing Procedure  
Procedure

Hearing
UNFAIR LABOR PRACTICES (cont.)

Procedure (cont.)

Investigation

Recognition, Failure to Accord

Refusal to Confer, Consult, Negotiate

Agency

Union

Refusal to Sign Agreement

Related Proceedings

Remedial Orders

Report of Investigation

Request for Bargaining

Requisites for Charges and Complaints

Responsibility for Acts of Individual

Revocation of Checkoff

Sections of EO

See: EO 11491, AND AS AMENDED

Solicitation for Membership

Stipulated Record

Strike

"Successorship" Doctrine

Terminating Agreement

Undermining Exclusive Representative

30 08 00

35 08 04; 35 28 00

35 28 00

40 28 00

35 28 00

05 20 00; 30 28 00

45 00 00; 50 00 00

30 08 00

35 28 00

30 04 00

35 08 08

35 24 00; 35 28 00; 45 04 00

35 08 12

30 08 00

40 20 00

35 24 00

35 28 00

35 28 00
UNFAIR LABOR PRACTICES (cont.)

Unilateral Action
Union ULP
Unit Appropriateness
Waiver of EO Rights
Work Stoppage

UNILATERAL ACTION

UNION
UNIT

- V-Z -

VALIDITY OF SHOWING OF INTEREST

VOTER

Eligibility
Intent
Prof Emps
Self-Determination

VOTING GROUPS

WAIVER OF

Agreement Bar Rule
Challenge to Intervention
EO Rights
Exclusive Recognition

WITHDRAWAL OPPORTUNITY

186

6-30-75
<table>
<thead>
<tr>
<th>Topic</th>
<th>Start Time</th>
<th>End Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>WITNESSES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LMSA Pers</td>
<td>15 12 00</td>
<td>05 12 04</td>
</tr>
<tr>
<td>Obligations of Parties</td>
<td>15 20 00;</td>
<td>30 08 00;</td>
</tr>
<tr>
<td></td>
<td>35 08 04;</td>
<td>35 28 00</td>
</tr>
<tr>
<td>Official Time</td>
<td>05 08 00;</td>
<td>35 08 04</td>
</tr>
<tr>
<td>Request for Appearance</td>
<td>15 20 00;</td>
<td>35 08 04</td>
</tr>
<tr>
<td>Testimony</td>
<td>15 20 00</td>
<td></td>
</tr>
<tr>
<td>WORK AREA CAMPAIGNING</td>
<td>35 08 08;</td>
<td>35 08 12</td>
</tr>
<tr>
<td>WORK STOPPAGE</td>
<td>40 24 00</td>
<td></td>
</tr>
</tbody>
</table>