

Petition for Review of Negotiability Issues for Use with Disapproved Provisions

USE THIS FORM ONLY IF THE UNION IS SEEKING REVIEW OF A PROVISION AGREED TO BY THE UNION AND THE AGENCY REPRESENTATIVE THAT HAS BEEN DISAPPROVED BY THE AGENCY HEAD ON REVIEW PURSUANT TO 5 U.S.C. § 7114(c).

Important Information: This form is to be used to initiate a negotiability proceeding and provide the Agency with notice that the Union requests a decision from the Authority that a specific provision is legal. Section 2424.22 of the Authority's Regulations requires the Union in the petition for review to, among other things, set out the exact language at issue, explain the meaning of the language, explain how it is intended to operate, explain technical or unusual terms, and provide copies of materials that support the Union's position.

The information requested below may be provided on this form or in a separately created document. The form is available at www.flra.gov, in a format that can be completed using standard word processing software. If you have questions about completing this form, please contact the Authority's Office of Case Intake and Publication at (202) 218-7740 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday (except federal holidays).

The regulations governing negotiability proceedings are in 5 C.F.R. part 2424, and are available at www.flra.gov.

On receipt of the petition for review, a representative of the Authority will schedule a conference concerning this petition.

Part I – Background

1. Name and Address of Petitioning Union:

Name:

Name:

Address:

2. Union Representative Contact Information:

Information:

Name:

Address (if different from Question 1):

Title:

Phone:

Fax:

Email:

3. Name and Address of Agency:

Name:

Address:

4. Agency Bargaining Representative Contact Information:

Name:

Address (if different from Question 3):

Title:

Phone:

Fax:

Email:

5. Agency Head or Agency Head Designee Contact Information:

Name:

Title:

Address:

Phone:

Fax:

Email:

You must answer each of the following questions. Where narrative/explanatory answers are required, for each question you may either: (1) type your complete response; or (2) type "see attached" and include your answers as an attachment.

For questions about filing requirements, contact the Office of Case Intake and Publication at (202) 218-7740.

6. How many provisions are in dispute?

7. What was the date of the Agency Head disapproval?

i. Attach a copy of the disapproval.

8. Are there or were there any related Court, FLRA, Federal Service Impasses Panel (FSIP), or other proceedings concerning the same provision?

Yes No

8a. If Yes, which of the following proceedings?

i. An unfair labor practice charge

Yes No

If Yes, explain in detail how the unfair labor practice charge is related to this negotiability proceeding and provide the following:

- (1) What date was it filed?
- (2) What is the status of the case?
- (3) What is the case number?

ii. A proceeding before the FSIP

Yes No

If Yes, explain in detail how the proceeding before the FSIP is related to this negotiability proceeding and provide the following:

- (1) What date was it filed?
- (2) What is the status of the case?
- (3) What is the case number?

iii. A related petition for review of negotiability issues

Yes No

If Yes, explain in detail how the petition for review of negotiability issues is related to this negotiability proceeding and provide the following:

- (1) What date was it filed?
- (2) What is the status of the case?
- (3) What is the case number?

iv. A related grievance

Yes No

If Yes, explain in detail how the grievance is related to this negotiability proceeding and provide the following:

- (1) What date was it filed?
- (2) What is the status of the case?

(3) What is the case number?

Part II – Alternative Dispute Resolution (ADR)

The Authority offers ADR services to help parties resolve their negotiability disputes through its Collaboration and Alternative Dispute Resolution program (CADR). CADR provides an alternative to traditional case processing and is available on a voluntary basis. If you are interested in CADR assistance or information regarding any of its services, you may contact the CADR staff at (202) 218-7933.

9. Are you interested in attempting to resolve this matter with the assistance of CADR?

Yes No

Part III – The Provisions

You must answer questions 10 through 14 for each provision. Where narrative/explanatory answers are required, for each box you may either: (1) type your complete response; or (2) type “see attached” and include your answers as an attachment. **If you type your responses on this form, then make a separate copy of questions 10 through 14 for each provision.**

PROVISION _____

10. Set out the exact wording of the provision sought to be declared legal.
11. Explain the meaning of the provision including: any special terms or phrases, technical language, or other words that are not in common usage.
12. Describe how the provision is intended to work and what impact it will have. Where a provision has previously been included in the parties’ collective-bargaining agreement, describe how the provision has worked and what impact it had. Where the provision concerns a particular work situation, or other particular circumstances, describe the situation or circumstances that will enable the Authority to understand how each provision is intended to apply.
13. If the Agency Head has explained the basis of any allegation that the provision is illegal, you may choose to attach a statement describing your legal arguments concerning the legality of these provisions. You may also wait and provide your arguments in response to the Agency’s statement of position. If you choose to provide your legal arguments with this petition, you may explain, but not change, those arguments in later filings.

For all statements, cite any law, rule, regulation, section of a collective-bargaining agreement, or other authority relied on in your argument or referenced in the provision. Attach to this petition a copy of all such material, except for federal statutes, government-wide regulations, or judicial and administrative decisions.

If your statement is more than 10 pages long, you must include a table of contents.

Are copies of materials attached?

Yes No

If yes, list the materials attached:

14. Do you wish to “sever” any part of the provision? *Severing a provision into separate parts makes each part the subject of a separate determination regarding its legality. Severance requires that each part has independent meaning, and should be sought only where you have an interest in determining whether any of the separate parts is legal even if the other part is not.*

Yes No

14a. If Yes, specify which provision you wish to sever, how it is to be severed, and the independent meaning of the severed parts.

Part IV – Hearing

15. Do you believe that a hearing or other fact-finding procedure is necessary to resolve any issues presented in this case?

Yes No

15a. If Yes, explain what those issues are and why they require a hearing.

Part V – Responsibilities of the Union

After filing the petition for review, the Union is responsible for participating in a conference and responding to any Authority Order.

Failure to participate in a conference under § 2424.23 of the Authority’s Regulations, a direction or proceeding under § 2424.31, or other failure to provide timely or responsive information pursuant to an Authority Order may result in dismissal of the petition for review. 5 C.F.R. § 2424.32.

Part IV – Checklist with Statement of Service and Signature

All documents filed with the Authority must comply with the requirements set forth in part 2429 of the Authority’s regulations.

A complete copy (including all attachments) of a Union petition for review must:

- Be served by certified mail, first-class mail, commercial delivery, in person, or email (but only when the receiving party has agreed to be served by email) on:
 - (1) the Principal Agency Bargaining Representative at the negotiations; and
 - (2) the Head of the Agency (or designee). (5 C.F.R. §§ 2424.2(g), 2429.27(b))
- Contain a signed and dated statement of service with names and addresses of parties served, date of service, nature of document served, and method of service. (5 C.F.R. § 2429.27(c))
- Contain an original and four (4) complete and legible copies of all documents. (5 C.F.R. § 2429.25)
- Be addressed to:

Case Intake and Publication
Federal Labor Relations Authority
Docket Room, Suite 201
1400 K Street, NW
Washington, D.C. 20424-0001

STATEMENT OF SERVICE

I certify that a complete copy of the Union's petition for review, including all attachments, in the case of _____ [UNION] and

_____ [AGENCY],

Case Number _____ were filed with the Office of Case Intake and Publication, Federal Labor Relations Authority, Washington, D.C. by

_____ [indicate method of service], and were sent this day to:

Agency Principal Bargaining Representative

(The Principal Bargaining Representative is the individual who signed the Agency allegation.)

Name:

Title:

Address:

Phone:

Method of Service: certified mail
 first-class mail
 commercial delivery (type: Fed Ex, UPS, etc.) _____
 personal delivery
 other (please specify) _____

The Head of the Agency (or designee)*/

Name:

Title:

Address:

Phone:

Method of Service: certified mail
 first-class mail
 commercial delivery (type: Fed Ex, UPS, etc.) _____
 personal delivery
 other (please specify) _____

Date

Name of filing party

Signature of Union's representative

*/ E.g., for components of the U.S. Department of Defense, the Head of the Agency (or "Agency Head") is the Secretary of Defense, or his or her designee.