



Federal Labor Relations Authority

1

Comprehensive Negotiability Training

Segment 1

2

Terms & Concepts

Proposals & Provisions

- Proposal — language offered for bargaining that parties haven't agreed to – Ag has declared outside the duty to bargain. 5 C.F.R. § 2424.2(e).
- Provision — contract language that local Un and Ag have agreed to as part of their CBA, or imposed by FSIP; disapproved on Ag-head review under § 7114(c). *Id.* § 2424.2(f).

“Meaning” Issues

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- If parties’ agreed meaning (or Un’s explanation) consistent with wording, adopt; if not, don’t. E.g., 66/278, 278; 65/509, 510; 51/451, 459.
- Provision cases – defer to local parties, not Ag head. E.g., 65/509, 514.
- Applies in other proceedings. E.g., 55/562, 564 n.9.

Subjects of Bargaining

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- **Mandatory**
 - Must bargain
 - E.g., § 7106(b)(2) & (3)
- **Prohibited**
 - May not (law prohibits)
- **Permissive**
 - May (Ag choice)
 - E.g., § 7106(b)(1); agreements to bargain below level of recognition, e.g., 62/174, 182

Negotiability Disputes: “Never”

5 C.F.R. § 2424.2(c)

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- Proposals: Prohibited and permissive outside the duty to bargain
- Provisions: Only prohibited may be disapproved by Ag head
- E.g., statutes (including FSLMRS), executive orders, gov’t-wide regs, Ag regs with “compelling need”
- Look at each proposal or provision in petition, e.g., 65/738, 741

Bargaining-Obligation Disputes: “Now”

5 C.F.R. § 2424.2(a)

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- Not required to bargain under current circumstances
 - E.g., “covered by,” “de minimis”
- No ULP remedies. *Id.* § 2424.40(a).
- Dismiss petition/portion of petition if only these disputes.

“Allegation of Nonnegotiability”

8

- For proposals
- Ag says: Outside the duty to bargain

Sequence/Filings (Generally)

9

- Un Petition for Review
- “CADR” & Post-Petition Conference
- Ag Statement of Position
- Un Response
- Ag Reply

Parties' Burdens/Failure to Meet

- Both: Create record & support arguments. E.g., 66/892, 898-99.
- Un: Within duty to bargain, not contrary to law, or permissive. 5 C.F.R. § 2424.32(a).
- Ag: Outside duty to bargain or contrary to law. *Id.* § 2424.32(b).
- Failure to raise and support = waiver. *Id.* § 2424.32(c).
- Failure to respond = concession. *Id.* § 2424.32(c)(ii)(2).

Severance

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- Division of proposal/provision into separate parts with independent meaning, for purpose of determining whether any separate parts = within duty to bargain/contrary to law. 5 C.F.R. § 2424.2(h).
- Un may request in petition or response. *Id.* §§ 2424.22(c) & 2424.25(d).
- Ag may oppose; must explain why inappropriate. *Id.* §§ 2424.24(d), 2424.26(a), 2424.26(d).

Hearing Requests

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- High standard: *Necessary* to resolve *disputed* issues of *material* fact. 5 C.F.R. § 2424.31.
- Authority usually relies on filings.

Other Avenues for Resolving Negotiability

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- Not FSIP or interest arbitrators (unless “substantially identical” to previous proposal/provision). E.g., 31/620, 624.
- ALJs and grievance arbitrators: May when resolving duty-to-bargain questions. E.g., 64/443, 446-47.

Segment 2

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The Authority Process

Union Files Petition for Review

15

- Initiates process before Authority.
- Process depends on: proposal or provision.

Union's Petition (Process): Proposals

16

- Un requests (in writing), and Ag gives, written allegation: Must file within 15 days of service of allegation. 5 C.F.R. § 2424.21(a).
- Un requests (in writing), but Ag doesn't respond: Choice: (1) not file petition; or (2) file any time after 10-day period for Ag response. *Id.* § 2424.21(b).
- Un doesn't request, but Ag gives. Un can: (1) file petition within 15 days; or (2) not file petition, request written allegation, wait. If Ag gives, 15 days; if Ag doesn't, then any time after 10-day period. *Id.* §§ 2424.11(c); 2424.21(a)-(b).

Union's Petition (Process): Provisions

17

- Within 15 days of service of Ag-head disapproval.
5 C.F.R. § 2424.21(a)(2).

Union Petition: Format & Content

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- Forms (including eFiling) or same information
- Copy of Ag's written allegation (where Ag gave one) & evidence Un requested it (if Un requested)
- Wording
- Special terms
- Meaning & operation
- Supporting arguments
- Related proceedings?
- Hearing request
- Severance
- Reps' info
- Statement of service

CADR (Collaboration & ADR)

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- Voluntary. 5 C.F.R. § 2424.10.
- Interest-based.
- Suspends process.

Post-Petition Conference

20

- Authority, Un, Ag rep(s)
- Normally by phone
- Parties must participate (*see* 5 C.F.R. § 2424.32(d) for consequences of failure)
- Party reps must be knowledgeable about dispute and have authority to discuss and resolve matters. Includes:
 - Meaning
 - Any disputed factual issues
 - Objections to proposals/provisions
 - Related proceedings?

Post-Petition Conference

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- Authority rep will:
 - Gather factual information about the dispute (including meaning and impact of proposals/provisions)
 - Facilitate discussion, seek areas of agreement, discuss modifications to wording
 - Decide issues concerning requests for extensions (but not waivers) of time
 - Prepare written record (served on parties)

Agency's Statement of Position (5 C.F.R. § 2424.24)

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- Within 30 days of Ag head's receipt of petition
- Forms (including eFiling) or equivalent
- Must contain all arguments why proposals outside duty to bargain/provisions contrary to law
- Any disagreements regarding meaning & operation

The Union's Response (5 C.F.R. § 2424.25)

23

- Within 15 days of receiving Ag's SOP
- Forms (including eFiling) or equivalent
- Must discuss any claims from SOP that Un disagrees with

The Agency's Reply (5 C.F.R. § 2424.26)

24

- Must file within 15 days after Ag receives copy of Un's response
- Forms (including eFiling) or equivalent
- Created by regulation to allow Ag to respond to facts or arguments made for the first time in U's response
- May not raise new arguments/bases for nonnegotiability that could have been raised in SOP

Other Filings

25

- Written request for permission
- Granted only in “extraordinary circumstances.”
5 C.F.R. § 2424.27.
- Parties encouraged to include submission along with request

Where to File

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Chief, Case Intake and Publication (CIP)

Federal Labor Relations Authority

Docket Room, Suite 200

1400 K Street NW.

Washington, DC 20424-0001

Phone = 202-218-7740

How to File

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- eFiling
- In person
- Commercial delivery
- First-class mail
- Certified mail
- NOT fax (except for motions)

When to File

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- For eFiled: Any calendar day (including Saturdays, Sundays, and holidays) or time, but don't have to on weekends/holidays
- For others: 9 a.m. to 5 p.m. Eastern Time

“Service” Required

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- Parties must serve other parties with copies of everything they file with Authority
- Un must serve Ag head (in addition to principal Ag bargaining rep)
- Methods:
 - Certified mail
 - First-class mail
 - In person
 - Email (ONLY if other party consents)
 - NOT fax (except service of motions)

Additional Procedural Requirements

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- Original and 4 copies of everything (except eFile)
- Signed statement of service (or eFile certification)
- Table of contents if over 10 double-spaced pages (except fillable forms in eFiling)

Noncompliance with Procedural Requirements

31

- Minor/technical may be excused
- But failure to file timely won't be – dismiss petition with prejudice
- And failure to respond to Authority order:
 - Dismiss petition (for Un failure)
 - Order bargaining or withdrawal of Ag-head disapproval (for Ag failure)

Authority's Decision and Order

32

- Proposals: Either dismiss petition or order bargaining
- If proposal is permissive matter, order will say
- Provisions: Either dismiss petition or, if mandatory or permissive, order Ag head to rescind disapproval

After the Decision and Order

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Possible scenarios:

- Comply
- Timely move for reconsideration (within 10 days after service). 5 C.F.R. § 2429.17.
- Appeal to US court of appeals within 60 days. 5 U.S.C. § 7123(a)(2). But note *id.* § 7123(c).
- Report, to the appropriate RD, any failure to comply – within a “reasonable time” after 60-day appeal time expires

Segment 3

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Bases for Dismissing Petitions

Bases for Dismissing Petitions

35

- Proposal or provision nonnegotiable
- Failure to comply with procedural requirements
- No negotiability dispute (look to each proposal/provision, e.g., 65/738, 741)
 - E.g., if only bargaining-obligation dispute. 5 C.F.R. § 2424.2(d).

Bases for Dismissing Petitions

36

Mootness

- No advisory opinions. 5 C.F.R. § 2429.10.
- Jurisdictional – burden on party arguing.
- Issues that led to filing of petition resolved, or no longer a dispute between the parties. E.g., 66/393, 393.
- E.g., date already passed. 58/409, 410.
- E.g., parties reached agreement. 52/251, 254.

Bases for Dismissing Petitions

37

- “Directly Related” to ULP or Grievance
 - Generally dismiss petition if Un has filed ULP charge or grievance alleging ULP
 - Exception in “compelling need” cases.
 - Dismissal without prejudice: Un may refile petition within 30 days of administrative resolution of ULP charge or grievance, if negot issue has not been resolved.
 - See, e.g.:
 - ✦ 56/796, 797 (grievance was directly related to petition);
 - ✦ 66/1038, 1038-39 (grievance wasn’t directly related).

Bases for Dismissing Petitions

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- If petition seeks review of proposal/provision that has not “substantively changed” from prior petition, e.g., 56/236, 237-38, and
- Authority did not dismiss previous petition without prejudice, e.g., 5 C.F.R. § 2424.30(a),
- Then Authority will dismiss petition.

Segment 4

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Substantive Issues

Conditions of Employment

40

- Personnel policies, practices, and matters, established by rule, regulation, or “otherwise,” affecting working conditions. 5 U.S.C. § 7103 (a)(14)
- Exceptions:
 - Hatch Act political activity (*Id.* §§ 7321-7326)
 - Classification matters
 - Matters “specifically provided for by [f]ederal statute”

“Specifically Provided For”

41

- Reference to matter not enough
- Ag has no discretion
- Example where established: 57/373, 383 (wage rates for GS employees)
- Example where not established: 56/664, 665-66 (law concerning Ag’s optical and dental plan preserved Ag’s discretion to negotiate over that matter).

Conditions of Employment

42

- 2-prong “*Antilles*” test:
 - Does matter pertain to bargaining-unit employees? *And*
 - Is there a “direct connection” between the matter and the work situation or employment relationship of the unit employees?
- 22/235, 236-37.

Non-Bargaining-Unit Employees

43

- Four groups of non-unit personnel:
 - 1) employees in other bargaining units;
 - 2) supervisors;
 - 3) non-supervisory employees not in any bargaining unit; and
 - 4) non-employees.
- “*Cherry Point*,” 952 F.2d 1434, 1442 (D.C. Cir. 1992).

Employees in Other Bargaining Units

- If proposal *directly determines* conditions of employment of employees in other units: prohibited subject (principle of exclusive recognition). 65/1052, 1054.
- But if only *indirectly* affect those employees' conditions of employment, not rendered nonnegotiable simply because they affect those employees. E.g., 53/1334, 1338-39 (proposal requiring Ag to grant unit members certain % of parking spaces negotiable where it didn't directly determine allocation of spaces to because it "would not directly determine the allocation of parking spaces to non-unit employees").

Supervisors

45

- Proposals that directly implicate supervisors' conditions of employment = permissive subjects.
- So can't be disapproved by Ag head, e.g., 61/336, 339, and enforceable in arbitration, e.g., 52/677, 682.

Non-Employees/Employees Not in *Any* Unit

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- Proposals directly implicating working conditions of non-employees or employees not in any bargaining unit = outside duty to bargain unless they “vitaly affect” unit employees’ conditions of employment. “*Cherry Point*,” 952 F.2d at 1442-43.
- Is the proposal’s effect on unit employees’ conditions of employment “significant and material, as opposed to indirect or incidental”? E.g., 64/723, 727; 58/344, 348.

Management Rights: General Principles

47

- 7106(a)(2) – limited by “applicable laws”
- 7106(a)(1) – not limited by “applicable laws”
- 7106(b)(1)
- All include right to not act
- All limited by 7106(b)
- Proposal/provision may involve more than one right – Authority addresses only those raised

Mission (7106(a)(1))

48

- Case by case. E.g., 58/341, 342.
- What mission includes/doesn't include. E.g., 59/159, 163.
- Generally not “how carried out.” E.g., *id.*
- When part of mission = serve public, proposals/provisions regarding hours office is open may affect. E.g., 49/333, 349; 22/868, 869.

Budget (7106(a)(1))

49

- Affected if either:
 - (1) Proposal/provision prescribes particular programs to be included in budget, or amount to be allocated in budget; or
 - (2) A makes “substantial demonstration that an increase in costs is significant and unavoidable and is not offset by compensating benefits.” E.g., 61/113, 116.
- Increase in costs, by itself, not enough. 66/124, 125.

Organization (7106(a)(1))

50

- Determine Ag's administrative and functional structure, including relationship of personnel through lines of authority and distribution of responsibilities for delegated and assigned duties. E.g., 63/530, 532.
- Includes rights to determine how organization will be divided up into sections, e.g., 58/175, 178, and where, geographically, Ag will operate, e.g., 56/444, 449.

Number of Employees in Agency (7106(a)(1))

51

- Total number actually employed. E.g., 46/298, 316.
- Different from numbers of employees assigned to organizational subdivisions, work projects, or tours of duty under § 7106(b)(1). E.g., *id.* at 316-17.

Internal Security (7106(a)(1))

52

- Determine policies and practices that are part of Ag's plan to secure or safeguard its personnel, physical property, or operations against internal and external risks. E.g., 66/929, 931.
- Ag must show link, or reasonable connection, between its security objective and agency policy or practice, and that proposal or provision conflicts with policy/practice. E.g., *id.*
- Authority doesn't review merits of Ag's policy/practice. E.g., *id.*

Hire (7106(a)(2)(A))

53

- Includes right to decide whether to fill positions.
E.g., 62/93, 94-95.

Assign Employees (7106(a)(2)(A))

- Is the right to assign employees to positions. E.g., 62/508, 510.
- Both initial hiring and post-hiring, such as reassignments, temporary assignments, or details. E.g., 65/911, 913.
- Also duration of assignments. E.g., 61/209, 218.
- Determine qualification and skills needed for positions, and judge whether particular employees possess them. E.g., 62/508, 510.

Direct Employees (7106(a)(2)(A))

55

- Supervise employees and determine quantity, quality, and timeliness of work. E.g., 65/508, 511.
- Establish performance standards and evaluate/hold employees accountable under those standards. E.g., 63/450, 453.
- Select particular methods of supervision (e.g., spot checks). E.g., 62/15, 17.
- NOT the right to decide whether to reward performance that's already been evaluated. E.g., 63/505, 508.

Layoff & Retain (7106(a)(2)(A))

56

- Separate rights. E.g., 58/344, 345.
- Layoff = Includes right to conduct RIF and decide what positions to abolish & retain. E.g., 65/911, 913.
- Retain = Establish policies or practices that encourage or discourage employees from remaining employed by Ag.
 - E.g., voluntary-separation-incentive pay, e.g., 67/85, 87, or substitutes for special rates, e.g., 60/839, 841-42.

Suspend, Remove, Reduce in Grade or Pay (7106(a)(2)(A))

57

- Suspend 'ees.
- Remove = e.g., determining which positions to vacate, e.g., 11/475, 482, or sequence of vacating positions, e.g., 3/3, 5-6.
- Reduce in grade or pay = e.g., precluding Ag from taking actions against employee for a particular offense. E.g., 53/539, 579.

Discipline (7106(a)(2)(A))

58

- For both performance- and nonperformance-related conduct. E.g., 65/ 142, 145.
- Investigate and determine appropriate investigative techniques. E.g., 60/124, 127.
- Decide which evidence to rely on. E.g., 61/341, 346.
- Decide penalty. E.g., 53/625, 679.

Assign Work (7106(a)(2)(B))

59

- Determine particular duties to be assigned, when work assignments will occur, and to whom/what positions assigned. E.g., 66/819, 823.
- Establish qualifications and skills, decide whether employees meet them. E.g., 61/97, 99.
- Does not include decision whether to reward performance. E.g., 63/505, 508.
- Not affected merely because proposal/provision requires Ag to take some action. E.g., 60/785, 787.

Contract Out & Determine Personnel (7106(a)(2)(B))

60

- Contract out = affected by proposals/provisions that delay contracting out, e.g., 60/595, 597, or required cost study beforehand, e.g., 48/168, 204.
- Determine personnel = decide employees to whom work will be assigned. E.g., 61/371, 373.

Select (7106(a)(2)(B))

61

- From: (1) among properly certified candidates for promotion; or (2) any other appropriate source.
- Decide qualifications, skills, and abilities needed for position and determine whether applicants have those. E.g., 61/618, 622.
- Proposals that limit sources of selection affect. E.g., 56/1046, 1048.
- Proposals that expand sources of selection do not affect. E.g., 61/226, 229.

Emergencies (7106(a)(2)(B))

62

- Includes rights to:
 - Independently assess whether emergency exists; and
 - Decide what actions are needed to address it. E.g., 58/549, 551.
- E.g., proposals/provisions that define “emergency.”
E.g., 55/243, 245.

Section 7106(b)

63

- All rights in § 7106(a) = “subject to” § 7106(b)
- Three parts:
 - 7106(b)(1)
 - 7106(b)(2)
 - 7106(b)(3)

Section 7106(b)(1)

64

- Permissive (“at the election of” the Ag). E.g., 62/90, 92.
- Ag head may not disapprove agreements unless otherwise unlawful. E.g., 65/509, 512.
- Enforceable in arbitration. E.g., 62/90, 92.
- If also concerns § 7106(b)(2) or § 7106(b)(3), then mandatory (must bargain). E.g., 62/341, 343.

Numbers, Types, & Grades . . .

65

- Numbers = increase, decrease, or maintain in organizational subdivision, work project, tour of duty. E.g., 57/424, 426. (Different from “number” in § 7106(a)(1).)
- Types = distinguishable classes, kinds, groups, or categories of employees or positions that are relevant to establishment of staffing patterns. E.g., 66/639, 645.
- Grades = for example, GS levels. E.g., 65/433, 435.

... Assigned to Organizational Subdivision, Work Project, or Tour of Duty

66

- Organizational subdivision. Examples = proposals/provisions:
 - Involving centralization/decentralization within agency. E.g., 54/1302, 1306.
 - Staffing of subdivisions (but not establishing subdivisions). E.g., 52/794, 802.
- Work project = “particular job” or “task.” E.g., 55/848, 853.
 - Example: Foremen’s duty to supervise inmates. E.g., *id.* at 853-54.
- Tour of duty = the hours of a day (daily tour) and days of an administrative workweek (weekly tour) that constitute an employee’s regularly scheduled administrative workweek. E.g., 57/424, 426.

Technology of Performing Work

67

- Technology = the technical method that will be used in accomplishing or furthering the performance of the Ag's work. E.g., 62/321, 326.
- Must show:
 - The technological relationship of the matter addressed by the proposal/provision to accomplishing or furthering performance of Ag's work; and
 - How the proposal/provision would interfere with the purpose for which the technology was adopted.

Methods and Means of Performing Work

68

- Method = the way in which Ag performs its work – the “how.”
E.g., 64/723, 725.
- Means = any instrumentality – including an agent, tool, device, measure, plan, or policy – that agency uses to accomplish, or further the performance of, its work – the “with what.” E.g., *id.*
- Ask:
 - (1) is there a direct or integral relationship between the Ag’s chosen method/means and the accomplishment of the Ag’s mission?; and
 - (2) does the proposal/provision directly interfere with the mission-related purpose for which the method/means was adopted?
E.g., 66 at 646.
- Relative importance irrelevant. E.g., 66/112, 115.

Section 7106(b)(2) – “Procedures”

- Mandatory subjects – must bargain, even if affect §§ 7106(a) and/or 7106(b)(1).
- Look to Authority precedent.
- Examples:
 - Requiring advance notice of certain agency actions. E.g., 61/209, 220.
 - Requiring management to delay exercise of rights pending completion of bargaining or appellate processes. E.g., 61/327, 331-33.

Section 7106(b)(3) – “Appropriate Arrangements”

- “Appropriate arrangements for employees adversely affected by the exercise of any authority” under § 7106.
- Mandatory subjects – must bargain, even if affect §§ 7106(a) and/or 7106(b)(1). E.g., 66/929, 940-41; 56/69, 86.

Appropriate Arrangements

71

“*KANG*” 2-part test:

- Arrangement?
- Appropriate?

21/24, 31.

Arrangements

72

- Must seek to mitigate adverse effects flowing from exercise of a management right. E.g., 67/85, 87.
- Un must identify effects or reasonably foreseeable effects that flow from management rights, and how they're adverse. E.g., 21/24, 31.
- Can't be speculative or hypothetical. E.g., 67/85, 87.
- Proposal/provision must be “tailored” to compensate/benefit employees suffering adverse effects due to management right. E.g., *id.*
- But may be “prophylactic.” E.g., 66/819, 822.

Is Arrangement “Appropriate”?

73

- Test different for proposals and provisions. E.g., 65/509, 512.
- Proposals = “excessive interference”
 - Weigh burdens on exercise of management rights against benefits to employees. E.g., 21/24, 31-32.
- Provisions = “abrogation”
 - Does the arrangement “waive,” or preclude Ag from exercising, affected rights? E.g., 66/809, 812; 65/509, 513, 515.

“Applicable Laws”

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- Limitation on § 7106(a)(2), but not § 7106(a)(1), rights.
- Include:
 - Statutes (but not THE Statute)
 - U.S. Constitution
 - Judicial decisions
 - Executive orders
 - Regulations having the “force and effect of law”:
 - ✦ Affect individual rights and obligations;
 - ✦ Promulgated under explicit or implicit delegation of legislative authority by Congress; and
 - ✦ Promulgated in accordance with procedural requirements imposed by Congress. E.g., 61/201, 206.

Agency Discretion

75

- Generally, if Ag has discretion over a matter, then Ag must bargain over proposals/provisions concerning that matter. E.g., 55/1, 4-5.
- But if Ag discretion is “sole and exclusive,” would be contrary to law to require bargaining over matters within discretion. E.g., 59/33, 346, 351.

Sole & Exclusive Discretion

76

- Authority examines plain wording and legislative history of statute or reg. E.g., 58/246, 248-50.
- Examples = “without regard to the provisions of any other law” or “notwithstanding any other provision of law.” E.g., 47/884, 895.

Agency Regulations

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- Ag regs = rules, regulations, and official declarations of policy that govern the resolution of matters within particular agencies. E.g., 37/186, 193-94.
- Generally within duty to bargain, unless Ag shows “compelling need” for regulation. 5 U.S.C. § 7117(a)(2).

“Compelling Need”

78

- Claim must be resolved in negotiability proceeding. E.g., 49/534, 542.
- Test under 5 C.F.R. § 2424.50:
 - Essential, not merely helpful or desirable, to accomplishment of mission or execution of functions of Ag or primary national subdivision in a manner that’s consistent with requirements of effective and efficient government;
 - Necessary to ensure maintenance of basic merit principles; or
 - Implements a mandate to the Ag or primary national subdivision under law or outside authority, which implementation is essentially nondiscretionary in nature.

Prior Agreements & Existing Policies

79

- Past agreement doesn't mean it's within the duty to bargain now. E.g., 61/554, 557.
- Nor does the fact that proposal reflects an existing Ag practice (e.g., Ag regulation).

Bargaining-Obligation Disputes

80

- E.g.:
 - ✦ (1) “covered by”
 - ✦ (2) “de minimis”

“Covered By”

81

- Don't have statutory duty to bargain over conditions of employment that have already been resolved by bargaining. E.g., 66/124, 126.
- Two-prong test:
 - ✦ (1) Is subject matter expressly contained in the agreement?
 - ✦ (2) If not, is the subject matter inseparably bound up with, and thus plainly an aspect of, a subject expressly covered by the agreement? E.g., 66/213, 216.

“Covered By”

82

- “Expressly Contained in the Agreement”
 - ✦ Exact congruence of language not needed.
 - ✦ Would a reasonable reader conclude that the contract provision settles the matter in dispute?
 - ✦ Does proposal modify or conflict with the express terms of the contract provision?
 - ✦ E.g., 66/213, 216; 66/124, 126.

“Covered By”

83

- “Inseparably Bound Up With”
 - ✦ Matter in proposal must be more than tangentially related to a contract provision
 - ✦ Is the matter so commonly considered to be an aspect of a matter in the parties’ agreement that negotiations can be presumed to have foreclosed further bargaining?
 - ✦ E.g., 66/213, 216.

“Covered By”

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- Examples of proposals covered by agreement:
 - ✦ E.g., 66/213, 218; 62/174, 178-79; 56/798, 803-05.
- Examples of proposals not covered by agreement:
 - ✦ E.g., 66/124, 126; 64/879, 882-83.

“De Minimis”

85

- Ag has no duty to bargain over changes that have only “de minimis” effects on unit employees’ conditions of employment. E.g., 64/85, 89.
- Authority looks to nature and extent of the effects, or reasonably foreseeable effects, of the change. E.g., *id.*
- Number of employees not dispositive. E.g., 64/166, 173.

“De Minimis”

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- Examples of de minimis changes:
 - ✦ E.g., 60/169, 175-76; 59/728, 728-29; 59/646, 654-55.
- Example of changes that were greater than de minimis:
 - ✦ E.g., 64/166, 173-74; 64/85, 89-90; 60/315, 318.

THE END

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*Questions,
Feedback,
&*

Thank You For Participating