

§ 7106(a)(2)(B) of the Federal Service Labor-Management Relations Statute (the Statute). The Authority found the Agency failed to demonstrate that the Arbitrator's interpretation and application of the parties' agreement impermissibly affected the cited right, and denied the Agency's contrary-to-law exception.

CASE DIGEST: *U.S. DHS, U.S. CBP and AFGC, Nat'l Border Patrol Council*, 74 FLRA 343 (2026)

The Union grieved an Agency decision to assign Customs and Border Protection officials outside the U.S. Border Patrol chain of command as the deciding officials in two misconduct investigations into Border Patrol agents. At arbitration, the Agency argued the grievance was untimely filed, and, thus, procedurally inarbitrable under the parties' collective-bargaining agreement. Without addressing the Agency's arbitrability argument, the Arbitrator proceeded to the grievance's merits. The Agency filed an exception arguing that the award failed to draw its essence from the grievance-filing procedures in the parties' agreement. Because the award did not provide sufficient findings to resolve this exception, the Authority remanded it.

CASE DIGEST: *SSA, Off. of Hearing Operations, Balt., Md*, 74 FLRA 346 (2026)
(Member Wagner concurring)

The Agency informed the Union that it would no longer allow the Union access to Agency files containing personally identifiable information for representational purposes, claiming the Privacy Act barred such disclosures. The Union grieved, asserting the change violated the Federal Service Labor-Management Relations Statute (the Statute). The Arbitrator sustained the grievance and directed the Agency to return to the status quo ante. Alternatively, if the Authority found the status quo ante conflicted with the Privacy Act, then the Arbitrator directed the Agency to bargain over the impact and implementation of the change. On exceptions, the Agency challenged both the finding of a statutory violation and the remedy as contrary to the Privacy Act. Because the Agency failed to show that the Privacy Act prohibits disclosures for representational purposes, the Authority upheld the Arbitrator's finding of an unfair labor practice. However, the Authority set aside the status quo ante remedy because it required access beyond what the Statute requires and, thus, did not fall within the "need-to-know" exception of the Privacy Act.

Member Wagner concurred, emphasizing that this decision involves only the Privacy Act's need-to-know exception and does not concern the Union's ability to obtain personally identifiable information under another applicable exception.

CASE DIGEST: *AFSCME, Loc. 1653*, 74 FLRA 355 (2026)

The Union filed a petition for review containing eight proposals. Because the petition did not present a negotiability dispute as to five of the proposals, and the Union did not dispute the Agency's claims that the remaining proposals were contrary to management's rights under § 7106 of the Federal Service Labor-Management Relations Statute, the Authority dismissed the petition.