Federal Labor Relations Authority
Quarterly Digest Report: July 1, 2026 – September 30, 2026

The following case digests are summaries of decisions/orders issued by the Federal Labor Relations Authority, with a short description of the issues and facts of each case. Descriptions contained in these case digests are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.

CASE DIGEST: *Prof'l Aviation Safety Specialists,* 0-AR-5968, 74 FLRA 473 (2026) (Member Wagner concurring in part, dissenting in part)

The Arbitrator issued an award finding the Agency did not violate the parties' agreement by failing to notify the Union and give it an opportunity to bargain before bargaining-unit employees were required, as part of their duties, to begin entering personal information, including Social Security numbers, in one of two external computer systems. The Union filed an exception arguing the award was contrary to law because the Arbitrator erred in finding the change to the employees' conditions of employment was de minimis. The Authority found that statutory standards applied to the parties' contractual dispute, deferred to the Arbitrator's unchallenged factual findings, and concluded that the Union failed to demonstrate the Arbitrator erred by finding the change at issue was de minimis. As such, the Authority denied the Union's exception.

Member Wagner concurred in part and dissented in part. She agreed that statutory standards, including the de minimis standard, should apply in resolving the exceptions. However, she disagreed with the majority's and the Arbitrator's conclusions that the change was de minimis. Accordingly, she would set aside the award and remand it to the parties for resubmission to the Arbitrator, absent settlement, to address the parties' remaining arguments.

CASE DIGEST: *USDA, Rsch, Educ. & Econ., Agric. Rsch. Serv., Se. Area*, 74 FLRA 480 (2026)

The Agency filed an application for review of the Regional Director's (RD's) decision ordering an election for a bargaining unit about which there was a good-faith doubt as to whether a majority of unit employees continued to support the Union. The Agency challenged the RD's

decision on the ground that it raised an issue for which there was an absence of precedent. Specifically, the Agency argued that, because the FLRA had ordered an election in similar circumstances less than six years earlier, another election was inappropriate – and that the Authority should either decertify the Union without an election or require the Union to demonstrate a showing of interest from unit employees before conducting another election. The Authority found that existing legal standards supported the RD's decision and that, consequently, there was not an absence of precedent warranting review of that decision. Therefore, the Authority denied the Agency's application for review.

CASE DIGEST: *NTEU*, 74 FLRA 486 (2026)

The Union filed a grievance alleging, among other things, that the Agency violated the parties' collective-bargaining agreement and the Federal Service Labor-Management Relations Statute (the Statute) by failing to give the Union notice and an opportunity to bargain before offering bargaining-unit employees opportunities for: (1) Voluntary Early Retirement Authority, which allows employees to voluntarily retire early; and (2) Voluntary Separation Incentive Payments, which compensate employees for voluntarily leaving the federal government. The Arbitrator issued an award finding that the Agency violated the parties' agreement, but not the Statute. The Union filed an exception alleging that the award is contrary to law. Because the Authority was unable to determine whether the award was contrary to law as alleged, it remanded the matter to the parties for resubmission to the Arbitrator, absent settlement, for further findings.

CASE DIGEST: *U.S. R.R. Ret. Bd.*, 74 FLRA 490 (2026)

The Agency denied the grievant's career-ladder promotion, and the Union filed a grievance alleging the denial violated a memorandum of understanding and the parties' collective-bargaining agreement. The Arbitrator sustained the grievance. The Agency filed exceptions claiming the award was based on nonfacts, was contrary to law, and that the Arbitrator exceeded his authority. The Authority found that the Arbitrator exceeded his authority by resolving an issue not before him, and set aside that portion of the award and related remedy. The Authority denied the Agency's nonfact exceptions and did not reach the Agency's contrary-to-law exception.

Chairman Kiko and Member Arrington concurred, separately, emphasizing the real-world predicament agencies are placed in when an employee, who is on 100% official time, seeks a career-ladder promotion for work he or she is not actually performing.

CASE DIGEST: *U.S. DHS, U.S. CBP and NTEU, Chapter 246*, Case No. 0-AR-5884, 74 FLRA 497 (2026) (Member Wagner concurring in part, dissenting in part)

The Agency denied the grievants' requests for full-time telework, but approved them to telework four days per week. The Union filed a grievance alleging that the denials violated the parties' agreement and a memorandum of understanding. The Arbitrator sustained the grievance and directed the Agency to grant the grievants' requests for full-time telework. The Agency

excepted, arguing, as relevant here, that the award was contrary to management's right to determine its organization under § 7106(a) of the Federal Service Labor-Management Relations Statute (the Statute). Weighing the award's substantive constraint on the Agency's exercise of its rights against the grievants' interest in teleworking one additional day per week, the Authority concluded that the award excessively interfered with management's right to determine its organization under § 7106(a) of the Statute. Therefore, the Authority set aside the award and found it unnecessary to reach the Agency's remaining exceptions.

Member Wagner concurred in part and dissented in part. As relevant here, she assumed, without deciding, that the award affected management's right to determine the Agency's organization. But she found that the agreement provisions, as interpreted and applied by the Arbitrator, were enforceable appropriate arrangements under § 7106(b)(3) of the Statute, and that the award satisfied the management-rights test established in *Consumer Financial Protection Bureau*, 73 FLRA 670 (2023).

CASE DIGEST: *AFGE, Loc. 3403,* 0-NG-3576, 74 FLRA 508 (2026) (Member Arrington concurring; Member Wagner concurring, in part, dissenting, in part)

This case concerned the negotiability of one provision addressing when an employee may revoke authorization for union-dues withholding. The Authority found that the provision was contrary to § 2429.19 of the Authority's Regulations, and declined the Union's request to rescind § 2429.19 and the Authority's general policy statement in *OPM*, 71 FLRA 571 (2020) (Member DuBester dissenting). Therefore, the Authority dismissed the petition.

Member Arrington concurred, emphasizing the need to equally consider the interests and rights of agencies, labor organizations, and employees.

Member Wagner concurred in part and dissented in part. Although she agreed that the provision was contrary to § 2429.19 of the Authority's Regulations, she would rescind § 2429.19 and the policy statement in *OPM*.

CASE DIGEST: *NATCA*, Case No. 0-AR-5877, 74 FLRA 524 (2026)

The Agency processed employees' revocations of dues authorizations without promptly notifying the Union as required by the two applicable collective-bargaining agreements (the agreements). The Arbitrator found that the Agency properly processed the revocations, but violated the agreements for failing to promptly provide the Union with notice of the employees' revocations. The Arbitrator issued an award, ordering the Agency to comply with the agreements' notice requirements and provide the Union with a monetary remedy equal to the employees' dues payments between revocation and notice. The Union filed exceptions alleging the award was contrary to law, in part. The Agency filed exceptions challenging the Arbitrator's monetary remedy on a number of grounds, including on the basis that it violated the doctrine of sovereign immunity. The Authority denied the Union's exceptions, granted the Agency's sovereign-immunity exception, and found it unnecessary to reach the Agency's other exceptions.

Member Wagner concurred in part and dissented in part. She agreed that the monetary award was contrary to law for the reasons stated by the majority. She also agreed with the denial of the Union's contrary-to-law exception, but she reached that conclusion for reasons different from the majority's. Specifically, she noted that the Arbitrator interpreted the parties' collective-bargaining agreements as providing that government-wide regulations that took effect before the agreements were extended governed over the extended agreements. Accordingly, she found that the Arbitrator did not err by applying 5 C.F.R. § 2429.19 to resolve the parties' dispute.

CASE DIGEST: *U.S. Dep't of the Treasury, BEP*, 74 FLRA 530 (2026) (Member Arrington dissenting)

The Agency changed its telework policy to require employees to work on-site and in-person for at least 50% of their work hours each month. The Union grieved, alleging that the Agency's unilateral implementation violated the parties' collective-bargaining agreement and the Federal Service Labor-Management Relations Statute. The Arbitrator sustained the grievance. The Agency filed exceptions alleging that the award was moot, failed to draw its essence from the parties' agreement, was contrary to law, and was impossible to implement, and that the Arbitrator exceeded his authority. The Authority dismissed some of the Agency's exceptions under §§ 2425.4(c) and 2429.5 of the Authority's Regulations and denied the remainder of the Agency's exceptions.

Member Arrington dissented, maintaining that the parties' agreement reserves to the Agency the discretion to determine when and to what extent telework is appropriate. Therefore, the Arbitrator's interpretation to the contrary failed to draw its essence from the plain language of the parties' agreement.

CASE DIGEST: *U.S. Marine Corps, Marine Corps Air Ground Combat Ctr., Twentynine Palms, Cal.*, 74 FLRA 541 (2026) (Member Wagner dissenting)

The Arbitrator issued an award sustaining a grievance, and the Agency filed exceptions (the arbitration exceptions). President Trump issued Executive Order 14251 (EO 14251) excluding the Agency from the coverage of the Federal Service Labor-Management Relations Statute (the Statute), based on his determinations that (1) the Agency has as a primary function intelligence, counterintelligence, investigative, or national-security work, and (2) the Statute cannot be applied to the Agency in a manner consistent with national-security requirements and considerations. In response to an Authority order, the Agency stated that EO 14251 applied to it and, consequently, deprived the Authority of jurisdiction over the arbitration exceptions. The Union did not file a reply and, thus, did not provide any reasons why EO 14251 did not apply.

Separate from the Authority's proceedings, six unions filed a complaint in the Northern District of California seeking to enjoin EO 14251, and the District Court issued an injunction. During the early stages of that external litigation, the Authority placed the arbitration exceptions in abeyance. Later, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) vacated the injunction, finding the six unions were unlikely to succeed on the merits of their challenge. As the parties before the Authority were located within the Ninth Circuit's jurisdiction, and because

neither party was currently involved in any other litigation in which that party challenged EO 14251 or its implementation, the Authority took the case out of abeyance and dismissed the arbitration exceptions for lack of jurisdiction, based on EO 14251.

Member Wagner dissented, stating that she believed the most prudent course of action is to keep cases covered by EO 14251, as amended by Executive Order 14343, in abeyance until the litigation over those orders reaches a definitive conclusion – including any actions by the U.S. Supreme Court. She noted that, in doing so, she expressed no view on the merits of the executive orders or how the majority applied them in this case.

CASE DIGEST: *U.S. DHS, U.S. CBP*, Case No. 0-AR-5897, 74 FLRA 545 (2026) (Chairman Kiko concurring in part and dissenting in part)

The Arbitrator issued an award finding the Agency violated the parties' agreement by failing to follow Customs and Border Protection rules or regulations that require the Agency to assign agricultural specialists to only agricultural inspection activities. The Agency excepted to the award on contrary to law and nonfact grounds. The Authority dismissed some of the Agency's contrary to law arguments because the Agency could have raised those arguments before the Arbitrator, but failed to do so. The Authority denied the Agency's remaining exceptions because they failed to demonstrate any deficiencies in the award.

Chairman Kiko dissented in part because she would find the Arbitrator erred as a matter of law in treating a 2007 letter from the then-Secretary of Homeland Security to U.S. Senator Dianne Feinstein, as well as a related memorandum, as "regulations" that governed the Agency's conduct over fifteen years later. Additionally, she would find the Arbitrator erred in concluding that these purported Agency regulations prohibited the Agency from assigning agricultural specialists to target "all threats," not only agricultural threats.

CASE DIGEST: *SSA*, 74 FLRA 555 (2026) (Member Wagner dissenting)

As employees were reentering the physical workspace at the conclusion of the COVID-19 pandemic, the grievant requested a temporary extension of full-time telework. Finding the grievant ineligible under the terms of the parties' agreement, the Agency denied the grievant's request. The Arbitrator issued an award finding the Agency's denial violated the parties' agreement. The Agency challenged the award on essence grounds, arguing that the parties' agreement did not permit telework in the grievant's circumstances and that the Arbitrator altered the plain meaning of the parties' agreement in finding otherwise. Revisiting the standard it applies to evaluate essence arguments, the Authority held that an award does not draw its essence from a collective-bargaining agreement when the excepting party demonstrates that the contractual interpretation conflicts with the plain wording of the agreement. Because the Arbitrator's interpretation conflicted with the plain wording of the agreement, the Authority granted the Agency's essence exception and set aside the award.

Member Wagner dissented. She found that: (1) the principles applied by federal courts in the private sector apply to the Authority's review of arbitrators' resolutions of contractual issues; (2) although some circuit courts are less deferential to arbitrators than others, the more

deferential courts' holdings are more consistent with Supreme Court jurisprudence; (3) consistent with that jurisprudence, in applying its "essence" tests, the Authority must ask whether the arbitrator was "even arguably construing or applying" the collective-bargaining agreement; and (4) contrary to the majority, an arbitration award is not deficient merely because it appears to conflict with an agreement's plain wording. Applying these principles, she would have denied the Agency's essence exception.

CASE DIGEST: *U.S. Dep't of HUD*, 74 FLRA 592 (2026) (Member Arrington concurring; Member Wagner dissenting)

The Agency notified teleworking bargaining-unit employees that they would be required to report to the office an additional day per week, and the Union grieved the modification. After the Union invoked arbitration, the Agency moved to dismiss the grievance on the ground that the Union missed its contractual deadline to invoke arbitration. The Arbitrator issued an interim award finding the grievance procedurally arbitrable and a merits award sustaining the Union's grievance. The Agency challenged both awards. Because the Arbitrator's procedural-arbitrability determination failed to draw its essence from the parties' collective-bargaining agreement, the Authority granted one of the Agency's exceptions to the interim award and set aside both awards.

Member Arrington concurred, emphasizing the responsibility arbitrators owe the parties of collectively bargained agreements – to apply and enforce the negotiated language.

Member Wagner dissented. Applying the principles set forth in her dissent in *SSA*, 74 FLRA 555 (2026) (Dissenting Opinion of Member Wagner) – and noting that arbitrators' determinations regarding procedural matters are entitled to even greater deference than those involving substantive matters – she would have denied the Agency's essence exception.

CASE DIGEST: *U.S. DOL*, 74 FLRA 604 (2026) (Member Wagner dissenting)

The Arbitrator found that the Agency violated the parties' collective-bargaining agreement by processing the revocation of an employee's dues withholding outside the pertinent contractual window. The Agency filed an essence exception arguing that, under the agreement, the parties were governed by a government-wide regulation that allowed the employee to revoke her previously authorized dues withholding outside the contractual window. The Authority granted the exception and set aside the award because the agreement expressly made government-wide regulations immediately applicable to the parties.

Member Wagner dissented. Applying the principles set forth in her dissent in *SSA*, 74 FLRA 555 (2026) (Dissenting Opinion of Member Wagner), she would have denied the Agency's essence exception.

CASE DIGEST: *Indep. Union of Pension Emps. for Democracy & Just.*, 74 FLRA 615 (2026) (Member Wagner concurring)

This case involved the negotiability of four proposals concerning remote work. The Authority found the Agency did not demonstrate that Proposals 1 and 2 were outside the duty to bargain. The Authority also found subsections (1)(a), (1)(c), and (1)(d) of Proposal 3 are within the duty to bargain. However, the Authority found subsection (1)(b) of Proposal 3 outside the duty to bargain because it affected management's right to assign employees and solely concerned an employee's decision to terminate their own remote-work agreement, rather than ameliorating adverse effects flowing from the exercise of a management right. The Authority also found Proposal 4 outside the duty to bargain because its disputed subsections affected management's rights to assign employees and assign work, and, even assuming they were arrangements, they excessively interfered with those rights.

Member Wagner concurred. She reiterated her position that a party arguing that a proposal or provision addressing employees' job locations affects the right to assign work has the burden of demonstrating a relationship between the employees' job locations and their job duties. But she agreed that the Agency made the required demonstration with regard to Proposal 4.

CASE DIGEST: *U.S. Dep't of HUD*, 74 FLRA 636 (2026) (Member Wagner dissenting)

The Union requested that the Authority reconsider its decision in *U.S. Department of HUD*, 72 FLRA 450 (2021) (*HUD*) (Chairman DuBester dissenting). Because the Union's motion did not establish extraordinary circumstances warranting reconsideration, the Authority denied it.

Member Wagner dissented. She would have granted reconsideration because the majority in *HUD* made an error of law in its application of the standard for assessing whether an arbitrator's award draws its essence from a collective-bargaining agreement. On reconsideration, applying the principles set forth in her dissent in *SSA*, 74 FLRA 555 (2026) (Dissenting Opinion of Member Wagner) – and noting that arbitrators' determinations regarding procedural matters are entitled to even greater deference than those involving substantive matters – she would have denied the Agency's essence exception.