



FLRA NEWS

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FOR IMMEDIATE RELEASE
September 12, 2023

The FLRA Updates Its Negotiability Regulations, eFiling System, and Negotiability Forms

Today, the Federal Labor Relations Authority (the Authority) substantively revised its Negotiability Regulations for the first time since 1999. [The Rule](#) will update the adjudication process for negotiability appeals, and is intended to benefit the Authority's parties by clarifying various matters and streamlining the negotiability process, thereby enabling the Authority to provide the parties with more timely decisions.

First, [the Rule](#) imposes a new requirement on each party to give sufficiently detailed explanations to enable the Authority to understand the party's position regarding the meaning, operation, and effects of a proposal or provision, as well as the associated legal implications. Parties are clearly notified that they should not expect the Authority to fill in gaps in order to make sense of incompletely explained positions. By requiring parties to sufficiently explain their positions, the Final Rule should allow for more timely dispositions based on adequately detailed records.

Second, [the Rule](#) streamlines the procedure for severing a proposal or provision into distinct parts. Previously, severance was available at two points in the negotiability proceedings. Under the Final Rule, severance may occur only as part of the Union's Response to the Agency's Statement of Position. As an additional change to the severance procedure, a union will not seek the Authority's approval for severance; instead, the union may accomplish severance of its own accord. However, the union must explain how the newly severed proposals or provisions operate and stand alone with independent meaning, as well as why the newly severed proposals or provisions are within the duty to bargain or consistent with law. The Authority anticipates that these changes will result in fewer severance-related disputes, thereby expediting negotiability proceedings.

Third, [the Rule](#) makes several other changes to the Negotiability Regulations, including: providing additional examples for commonly used terms; clarifying the deadlines for certain filings; explaining that the Authority may hold a hearing or take other appropriate action instead of, or in addition to, conducting a post-petition conference; revising the rules for filing additional submissions; and defining when a grievance is "resolved administratively" for purposes of a negotiability petition that was previously dismissed without prejudice due to a directly related grievance.

The Authority's eFiling system and negotiability forms will reflect the changes to the Regulations once those changes go into effect on October 12, 2023.

Chairman Susan Tsui Grundmann stated, "These updated Regulations will provide the parties with essential guidance in understanding their responsibilities in negotiability cases, and the accompanying changes to the eFiling system and negotiability forms will provide the Authority with better information to promptly resolve negotiability disputes. Member Colleen Duffy Kiko and I are proud to make these changes in furtherance of Congress's goal to 'expedite proceedings' in negotiability cases, consistent with 5 U.S.C. § 7117(c)(6)."

The Authority encourages all interested persons to carefully review the Rule, which can be found at: <https://www.federalregister.gov/public-inspection/2023-19269/negotiability-proceedings>.

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The FLRA administers the labor-management relations program for 2.1 million non-Postal federal employees worldwide, approximately 1.2 million of whom are represented in 2,200 bargaining units. It is charged with providing leadership in establishing policies and guidance related to federal sector labor-management relations and with resolving disputes under, and ensuring compliance with, the Federal Service Labor-Management Relations Statute.