

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of)

DEPARTMENT OF THE ARMY)
U.S. ARMY ORDNANCE, MISSILE,)
AND MUNITIONS CENTER)
AND SCHOOL)
REDSTONE ARSENAL, ALABAMA)

and)

LOCAL 1858, AMERICAN FEDERATION)
OF GOVERNMENT EMPLOYEES, AFL-CIO)

Case No. 91 FSIP 83

DECISION AND ORDER

Local 1858, American Federation of Government Employees, AFL-CIO (Union), filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under section 7119 of the Federal Service Labor-Management Relations Statute (Statute) between it and the Department of the Army, U.S. Army Ordnance, Missile, and Munitions Center and School, Redstone Arsenal, Alabama (Employer).

After investigation of the request for assistance, the Panel directed the parties to have a telephone conference with Staff Associate Gladys M. Hernandez for the purpose of resolving the issues at impasse. The parties were advised that if no settlement were reached, Ms. Hernandez would report to the Panel on the status of the dispute, including the parties' final offers, and her recommendations for resolving the issues. After considering this information, the Panel would take whatever action it deemed appropriate to resolve the impasse, including the issuance of a binding decision.

Ms. Hernandez held a telephone conference with the parties on March 28, 1991, but the parties were unable to reach a settlement. She has reported to the Panel based on the record developed by the parties, and it has considered the entire record in the case.

BACKGROUND

The Employer trains U.S. and international military and civilian personnel in munition service support and maintenance of Army missile and directed energy weapons systems, air defense guns, and test measurement and diagnostic equipment. The Union represents 486 General Schedule and Wage Grade employees who hold instructional and noninstructional positions.

The dispute arose during negotiations over a successor to the parties' collective-bargaining agreement which was to expire on April 2, 1989; its terms and conditions have been extended until a new agreement is approved. Previously, in Department of the Army, U.S. Army Ordnance, Missile, and Munitions Center and School, Redstone Arsenal, Alabama and Local 1858, American Federation of Federal Employees, AFL-CIO, Case No. 90 FSIP 21 (March 23, 1990), Panel Release No. 293 (Redstone Arsenal I), the Panel determined, under the Federal Employees Flexible and Compressed Work Schedules Act of 1982 (Act), 5 U.S.C. section 6120 et seq., that the Union's proposed experimental 5-4/9 alternative work schedule (AWS) plan for noninstructional employees would not have an adverse impact on the Employer's operations so as to preclude bargaining over the merits. Accordingly, the parties resumed negotiations and have resolved all but two issues relating to a 1-year experimental 5-4/9 AWS plan.^{1/} Approximately 305 employees are affected. They hold noninstructional positions such as training or education specialist, supply clerk or technician, electronic integrated systems mechanic, combat developments specialist, general engineer, and operational research analyst, in five organizational departments. These are Directorate of Training and Doctrine; School Secretary; Directorate of Combat Developments; Training Support Office; and Directorate of Evaluation and Standardization. The parties have agreed to exclude instructional personnel from participation in the experimental AWS plan.

ISSUES AT IMPASSE

Those aspects of the experimental AWS plan which remain in dispute are (1) which noninstructional employees would be permitted to participate, and (2) how the off day would be scheduled.

^{1/} Under a 5-4/9 AWS arrangement, during a biweekly pay period, employees work 9 hours a day for 8 days, 8 hours on 1 day, and have 1 day off.

POSITIONS OF THE PARTIES

1. Noninstructional Employees' Participation in Experimental 5-4/9 AWS Plan

a. The Employer's Position

The Employer proposes that all noninstructional employees in the Logistics and Academic Records Divisions in the School Secretary, Internal Branch of the Directorate of Evaluation and Standardization, and Course Development and Individual and Unit Training in the Directorate of Training and Doctrine be excluded from participation in the 1-year 5-4/9 AWS experimental plan. Participation would be limited to those approximately 205 noninstructional employees who work in the Directorate of Combat Developments.

The approximately 100 noninstructional employees who would be excluded from participation work directly with, and provide support to, instructional employees. Because they perform support functions, which include, among others, developing the curriculum, evaluating instructors and courses of study, maintaining equipment, making travel and accommodation arrangements for students, and handling administrative tasks, their work schedules should coincide with the standard workday schedule of instructional employees, thereby assuring that they would be available when needed.^{2/} Moreover, recently a reduction in force took place and others are expected in the near future. The resulting decrease in personnel strength coupled with an increase in workload require the presence of these employees on a daily basis to ensure that the instructional mission is not jeopardized. In this regard, the Employer contends that it would have to incur overtime costs to prevent diminution in the efficiency of instructional operations. Finally, there are no military agencies with a teaching mission which have established AWS plans for employees.

b. The Union's Position

The Union proposes that all noninstructional employees be allowed to choose a 5-4/9 AWS for a 1-year period. It points out that under such a schedule, the work schedules of all employees would coincide or overlap on 9 out of 10 workdays. Furthermore, the type of work performed by noninstructional personnel -- writing, development, and evaluation -- could be

^{2/} Instructional personnel work 10, 8-hour days during a 2-week pay period from 7:45 a.m. to 4:30 p.m., with a 1/2-hour lunch break and one 15-minute rest break.

scheduled for these 9 extended workdays; daily contact with instructional personnel is not required. Finally, the Panel, in Redstone Arsenal I, supra, already concluded that participation of all noninstructional employees in the 5-4/9 AWS plan would not adversely affect the Employer's mission.

CONCLUSIONS

Having considered the evidence and arguments on this matter, we conclude that the parties should adopt the Union's proposal which would permit all noninstructional employees to participate in the 1-year 5-4/9 AWS test plan, if they so choose. There is no evidence in the record to demonstrate that noninstructional employees who work with instructional employees in a support capacity would not be able to perform their duties during the 9 workdays they would be present, 8 with expanded hours. We note that previously-agreed-upon provisions, among other things, reserve to the Employer the right to (1) schedule the starting and quitting times of employees to facilitate its operations and (2) refuse to approve an individual employee's participation in the plan for mission-related reasons. In our view, such contractual rights should provide the Employer with sufficient latitude to plan work coverage, as well as avoid problems which might otherwise arise from having certain noninstructional employees who perform support functions work a 5-4/9 AWS. Moreover, a statutory procedure is available for the Employer to terminate the test program altogether if it is actually impairing its ability to carryout its training mission.^{3/}

2. Assignment of Day Off

a. The Employer's Position

The Employer proposes the following:

The off day for employees participating in the AWS shall be equally distributed throughout the 2-week period insofar as practical. The Employer will be responsible for scheduling the employee's off day and

^{3/} Under section 6131(c)(3)(A) of the Act, the Employer may at any time reopen and request termination of a negotiated agreement providing for a flexible or compressed work schedule if its agency head or designee determines that it is having an adverse agency impact.

8-hour day for the 2-week pay period. The exception to the 8-hour day is when the pay period has a legal holiday.

The Employer argues that allowing it to equally distribute the employees' off days would permit it to keep the number of employees that are off work on any given day to a minimum; for maximum efficiency, the Employer must have the maximum number of employees possible on the job. Moreover, the law does not require that an employee's day off be on a Friday or a Monday. In this regard, the Employer argues without support that Congress' intent in permitting bargaining over AWS was to conserve energy in Federal facilities, and not to provide employees with a 3-day weekend.

b. The Union's Position

The Union proposes the following:

Management will make every effort possible to schedule the employees to a compressed work schedule that will culminate in a 3-day weekend. However, due to mission requirements, individual[] [employees] may be assigned [] an off day other than a Friday or [] Monday. In these cases, the [] [employees] will be informed as to the reason for the assignment. In a pay period with a holiday, the 8-hour day automatically changes to the employees['] holiday for the compressed work schedule. This agreement does not cover part-time employees or employees assigned outside the Huntsville, Alabama, area.

The sole matter in dispute, scheduling the day off on a Friday or Monday, is the practice in the Federal Government. Employees can schedule medical and dental appointments for their days off, thereby negating the need to take sick leave. Only if they have a set day off, however, can they schedule such appointments. Moreover, the Employer could alternate employees' off days so that no more than 25 percent of participating employees would be off on any given Friday or Monday in the 2-week pay period. Finally, the Employer's proposal would discourage employees from selecting a 5-4/9 AWS because a principal attraction to employees' selecting such a schedule is the 3-day weekend every 2 weeks.

CONCLUSIONS

We find that the Union's proposal provides a reasonable basis for resolution of this matter. The common scheduling approach under a 5-4/9 AWS plan is for employees to be off either on Fridays or Mondays, thereby affording them a 3-day weekend to better accommodate family life and personal needs. In our view, absent any persuasive evidence that support services to instructional employees would be hindered if noninstructional employees' off days are scheduled for alternate Fridays and Mondays, and given the Employer's discretion, if instructional services are hindered, to change an employee's off day to other than a Friday or Monday, or even remove an employee from the 5-4/9 AWS, they should be allowed to enjoy the benefits of a 3-day weekend. We conclude, however, that the phrase "make every effort possible," should be deleted from the proposal. While we do not anticipate that the Employer would deny unreasonably an employee's request to have an alternate Friday or Monday as the usual off day under a 5-4/9 AWS, elimination of those words would remove a potential source of disagreement over their interpretation and thereby avoid unnecessary grievances.

ORDER

Pursuant to the authority vested in it by section 7119 of the Federal Service Labor-Management Relations Statute and because of the failure of the parties to resolve their dispute during the course of the proceedings instituted under section 2471.6(a)(2) of the Panel's regulations, the Federal Service Impasses Panel under section 2471.11(a) of its regulations hereby orders the following:

1. Noninstructional Employees' Participation in the Experimental 5-4/9 AWS Program

The parties shall adopt the Union's proposal.

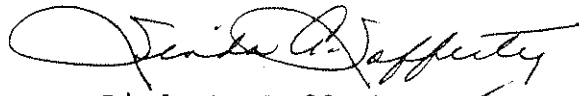
2. Assignment of Day Off

The parties shall adopt the Union's proposal modified as follows:

Management will schedule the off day of employees on a 5-4/9 schedule for a Friday or Monday allowing for a 3-day weekend, if permitted by mission requirements. If, due to mission requirements, management assigns employees to an off day other than a Friday or Monday,

the employees will be informed as to the reasons for such assignment. In a pay period with a holiday, the 8-hour day automatically changes to the employee's holiday for the compressed work schedule. This agreement does not cover part-time employees or employees assigned outside the Huntsville, Alabama, area.

By direction of the Panel.



Linda A. Lafferty
Executive Director

July 23, 1991
Washington, D.C.