

**CASE DIGEST:** *U.S. Dep't of Commerce, Nat'l Oceanic and Atmospheric Admin., Nat'l Weather Serv.*, 71 FLRA 1239 (2020) (Member Abbott concurring; Chairman Kiko dissenting)

The Arbitrator found that the Agency violated the parties' ground rules agreement (the ground rules) by failing to respond to the Union's requests for formal declarations of nonnegotiability. The Authority found that that the Agency's essence exception constituted mere disagreement with the Arbitrator's findings and failed to demonstrate that the award does not draw its essence from the ground rules. Furthermore, the Authority denied the Agency's contrary-to-law exception because the Authority's Regulations do not prevent an agency from obligating itself through an agreement to making formal declarations of nonnegotiability upon request.

Member Abbott concurred in the decision but wrote separately to emphasize that the provision at issue runs counter to the negotiability framework in the Statute and the Authority's regulations. Furthermore, while the provision did not "facilitate and encourage the amicable settlement of [the] disputes" between the parties, he could not conclude that the Arbitrator's interpretation of the ground rules was implausible.

Chairman Kiko dissented on the ground that the award failed to draw its essence from the ground rules. Because the Agency was not alleging that the proposals were nonnegotiable, the ground rules did not require the Agency to provide a formal declaration of nonnegotiability.

This case digest is a summary of a decision issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.