

**Federal Labor Relations Authority**  
**Quarterly Digest Report: July 1, 2024 – September 30, 2024**



*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:**     *U.S. Dep't of VA, Colmery-O'Neil VA Med. Ctr., Topeka, Kan.,*  
73 FLRA 897 (2024)

The Arbitrator found the Agency violated the parties' collective-bargaining agreement by failing to maintain records of the time certain employees spent undergoing mandatory COVID-19 testing, and produce the grievants' testing records to the Union. The Union alleged the Agency failed to properly compensate the grievants for time spent undergoing testing, the Arbitrator drew an adverse inference against the Agency due to its failure to maintain and produce the requisite records, and he awarded the grievants backpay. The Agency filed exceptions to the award on contrary-to-law and exceeded-authority grounds. The Authority dismissed the contrary-to-law exception, and partially dismissed the exceeded-authority exception, because the Agency raised arguments that it failed to present to the Arbitrator. The Authority found the Agency's remaining exceeded-authority argument lacked merit.

**CASE DIGEST:**     *U.S. Dep't of VA, John J. Pershing VA Med. Ctr. Poplar Bluff, Mo.,*  
73 FLRA 901 (2024)

The Arbitrator issued an award finding the Agency violated law and Agency policy when it discriminated against the grievant and failed to provide her with a reasonable accommodation. The Agency filed an exception arguing the award is contrary to law. The Authority denied the Agency's exception because the Agency did not challenge all of the grounds on which the award was based, and the unchallenged finding served as a separate and independent ground for the award.

**CASE DIGEST:** *U.S. Dep't of VA, John J. Pershing VA Med. Ctr., Poplar Bluff, Mo. & AFGE, Loc. 2338, 73 FLRA 904 (2024)*

The Authority dismissed the Agency's exceptions to the Arbitrator's award because the Agency did not respond to a procedural-deficiency order and a subsequent show-cause order.

**CASE DIGEST:** *Md. Air Nat'l Guard, 73 FLRA 905 (2024)*

After fire-protection personnel (firefighters) at Warfield Air National Guard Base (Warfield) were converted to Title 5 federal government employees, the International Association of Fire Fighters (IAFF) filed a petition with the Federal Labor Relations Authority (FLRA) seeking an election to determine whether the firefighters at Warfield wished to be represented by IAFF. FLRA Regional Director Jessica S. Bartlett (the RD) found the firefighters are included within the express terms of an existing bargaining-unit certification held by the Association of Civilian Technicians (ACT), and that it would not be appropriate to sever the firefighters from the ACT unit. IAFF filed an application for review of the RD's decision, arguing the RD failed to apply established law. The Authority agreed, finding the RD erred in finding the firefighters fell within the express terms of the ACT certification. Accordingly, the Authority granted the application, reversed the RD's decision, and remanded the case to the RD for further proceedings.

**CASE DIGEST:** *U.S. Dep't of VA, John J. Pershing VA Med. Ctr., Poplar Bluff, Mo., 73 FLRA 914 (2024)*

The Arbitrator found that the Agency violated the parties' collective-bargaining agreement by denying the grievant 100% official time. The Agency filed exceptions to the award on contrary-to-law, contrary-to-Agency-regulation, nonfact, essence, and bias grounds. The Authority dismissed the contrary-to-law exception because it raised an argument the Agency could have, but did not, present to the Arbitrator. The Authority denied the contrary-to-Agency-regulation exception as unsupported. Because the Agency's remaining exceptions did not establish that the award was deficient, the Authority denied them.

Chairman Grundmann concurred.

**CASE DIGEST:** *U.S. Dep't of the Army, U.S. Army Garrison, Directorate of Emergency Servs., Fort Huachuca, Ariz.*, 73 FLRA 919 (2024)

The Arbitrator issued an award finding the Agency's reassignment of firefighters violated the parties' collective-bargaining agreement – and another arbitrator's previous interpretation of the agreement – and constituted a prohibited personnel practice under 5 U.S.C. § 2302. The Arbitrator awarded various remedies, including compensatory damages for firefighters who incurred expenses as a result of the Agency's violations. The Arbitrator directed the Union to compile monetary data regarding the remedies, and to provide that data to the Agency for review and comment before submitting it to the Arbitrator. The Agency filed contrary-to-law and exceeded-authority exceptions to the award. The Authority dismissed the exceeded-authority exception, and partially dismissed the contrary-to-law exceptions, because the Agency did not raise the arguments at arbitration. The Authority denied the remaining contrary-to-law exceptions because the Agency failed to demonstrate the award was deficient.

**CASE DIGEST:** *AFGE, Loc. 228 and U.S. Small Bus. Admin.*, 74 FLRA 1 (2024)

The Agency denied a Union representative's request for official time to prepare for a meeting, and the Union grieved, arguing that the denial violated the parties' collective-bargaining agreement. The Arbitrator denied the grievance, finding that the parties' agreement did not entitle the Union representative to official time for meeting preparation. The Union filed an exception arguing that the award conflicted with § 7131(b) and (d) of the Federal Service Labor-Management Relations Statute. Because the Union could have raised these statutory arguments at arbitration, but did not, the Authority dismissed the exception.

**CASE DIGEST:** *AFGE, Loc. 25*, 74 FLRA 3 (2024)

The Arbitrator denied a grievance challenging the Agency's reprimand of an employee, finding the Agency had just cause to discipline the employee. The Union argued the award was deficient on the ground that the Arbitrator exceeded his authority, and on grounds that the award failed to draw its essence from the parties' collective-bargaining agreement and was incomplete or ambiguous. The basis for each exception was the Arbitrator's alleged failure to address a contractual provision that was not included in the parties' stipulated issue. The Authority found the exceptions lacked merit, and denied them.

**CASE DIGEST:** *U.S. DHS, U.S. CBP and NTEU*, 74 FLRA 6 (2024)

The Union filed a national grievance alleging the Agency's inconsistent processing of hardship-reassignment requests violated the parties' collective-bargaining agreement. The Arbitrator sustained the grievance and directed the Agency to give affected employees the opportunity to reapply for reassignments under consistent processing standards. The Agency filed exceptions arguing the remedies were based on a nonfact, the Arbitrator exceeded his authority in several ways, and the remedies were contrary to management's rights under § 7106(a) of the Federal Service Labor-Management Relations Statute. Because the Agency did not demonstrate the remedies were deficient as alleged, the Authority denied these exceptions.

**CASE DIGEST:** *U.S. DOJ, Fed. BOP, Fed. Corr. Inst., Ashland, Ky.*, 74 FLRA 13 (2024)

The Union filed a grievance alleging the Agency violated the parties' collective-bargaining agreement and 5 U.S.C. § 2302 by exposing the grievant to asbestos and retaliating against the grievant for making protected disclosures. The Arbitrator sustained the grievance and, as part of the remedy, directed the Agency to pay for medical costs, care, and monitoring relating to the grievant's asbestos exposure. On exceptions, the Agency argued that the award was contrary to the Back Pay Act, the doctrine of sovereign immunity, and the Federal Employees' Compensation Act (FECA). The Authority granted the Agency's FECA exception and set aside the Arbitrator's remedy directing Agency payment of medical costs, care, and monitoring. The Authority dismissed or denied the Agency's remaining exceptions.

**CASE DIGEST:** *U.S. Dep't of the Army, Fort Huachuca, Ariz.*, 74 FLRA 18 (2024)

The Arbitrator found the Agency violated the parties' collective-bargaining agreement by requiring the grievants to attend training that: occurred on their in-lieu-of holiday; lasted more than eight hours each day; and did not allow the grievants to take lunch periods. The Arbitrator awarded various remedies. The Agency filed exceptions arguing the Arbitrator exceeded his authority and that the award was: contrary to law; based on a nonfact; and incomplete, ambiguous, or contradictory, so as to render implementation of the award impossible. The Authority dismissed some of the exceptions as moot, and denied the remaining exceptions because they failed to demonstrate the award was deficient.

**CASE DIGEST:** *AFGE, Loc. 310*, 74 FLRA 22 (2024)

The Arbitrator issued an award denying a Union grievance alleging the Agency failed to pay the grievant for overtime worked during non-duty time. The Union excepted to the award on essence, nonfact, and contrary-to-law grounds. The Authority denied the exceptions because the Union failed to demonstrate the award was deficient.

**CASE DIGEST:** *NAIL, Loc. 19 and U.S. Dep't of the Air Force, Scott Air Force Base, Ill.*, 74 FLRA 25 (2024)

After the Agency suspended an employee for fourteen days for a physical altercation with a coworker, the Union grieved, and the Arbitrator sustained the suspension. Citing investigatory interviews an Agency official conducted before rendering the disciplinary decision, the Union filed an exception arguing that the award conflicted with federal-court precedent because the Agency deprived the grievant of due process. Because the Union did not demonstrate the interviews deprived the employee of due process, the Authority denied the exception.

**CASE DIGEST:** *U.S. DOJ, Fed. BOP, Fed. Corr. Inst., Elkton, Ohio*, 74 FLRA 29 (2024)

The Arbitrator issued an award finding that the grievance was arbitrable and that the Agency violated the Fair Labor Standards Act and the parties' collective-bargaining agreement by failing to properly compensate the grievants for overtime. The Agency filed exceptions arguing that the Arbitrator exceeded his authority and that the award failed to draw its essence from the parties' agreement. The Authority denied the Agency's exceptions because they did not demonstrate the award was deficient.

**CASE DIGEST:** *Fed. BOP, Fed. Corr. Complex Petersburg, Petersburg, Va.*, 74 FLRA 33 (2024)

The Federal Labor Relations Authority's (FLRA's) General Counsel (GC) issued a complaint alleging the Respondent violated §§ 7114(b)(4) and 7116(a)(1), (5), and (8) of the Federal Service Labor-Management Relations Statute. When the Respondent did not file a timely answer to the complaint, an FLRA Administrative Law Judge (Judge) granted the GC's motion for summary judgment. The Respondent filed an exception arguing that summary judgment was not appropriate. Because the Respondent did not demonstrate good cause for its failure to timely file an answer to the complaint, the Authority denied the Respondent's exception and adopted the Judge's findings, conclusion, and recommended order.