



Federal Service Labor-Management Relations Statute

5 U.S.C. § 7106(b)(1) Training

Exercises

Exercise 1

The Union represents security officers employed by a Veterans Administration medical center. During bargaining, the Union presents the following proposals:

Proposal 1:

The employer agrees to maintain and service two-way radio systems, and other necessary equipment.

Proposal 2:

The employer will provide and maintain in good working order a security vehicle for the sole use of security officers. The employer will also provide a suitable back-up vehicle for use by security officers in the event that the security vehicle is out of service.

Proposal 3:

The employer will maintain a minimum of two (2) security officers on duty during each tour of duty.

Questions

1. What, if any, § 7106(b)(1) rights are implicated by Proposal 1?
2. What, if any, § 7106(b)(1) rights are implicated by Proposal 2?
3. What, if any, § 7106(b)(1) rights are implicated by Proposal 3?

Bonus Question:

Are any other management rights (§ 7106(a)(1) rights) implicated by these proposals?

Exercise 2

An Agency required its field agents to use beepers to facilitate communication between management and its employees. However, during negotiations, the Union and the Agency enter into a collective bargaining agreement with the following term:

Voluntary Beeper Policy. The use of beepers will be on a voluntary basis only.

Subsequently, during the lifetime of the agreement, the Agency informed employees that it was reinstating its former policy making beeper use mandatory.

Union's Position

The Agency violated the parties' agreement and should be ordered to restore the voluntary beeper policy.

Agency's Position

Requiring employees to use beepers constitutes a determination of the technology, methods and means of performing work within the meaning of § 7106(b)(1) and, thus, is a permissive subject of bargaining. Accordingly, the Agency had a right to revoke the voluntary beeper policy and reinstate the mandatory beeper requirement because it is not required to bargain over permissive subjects.

Questions

1. Does the contract term affect a § 7106(b)(1) right?
2. Did the Agency violate the parties' agreement or was it within its rights to reinstate the mandatory beeper requirement?

Exercise 3

The Union represents air traffic controllers employed by the Federal Aviation Administration. During bargaining, the Union presents the following proposals:

Proposal 1:

The Logistics Division should be subsumed into the Surveillance Section as a specialized unit.

Proposal 2:

Employees electing not to use APS tracking software shall not have that election negatively impact their performance evaluations.

Proposal 3:

The Midwest Regional Surveillance Project will be transferred from Cincinnati to Cleveland.

Questions

1. What, if any, § 7106(b)(1) rights are implicated by Proposal 1?
2. What, if any, § 7106(b)(1) rights are implicated by Proposal 2?
3. What, if any, § 7106(b)(1) rights are implicated by Proposal 3?

Exercise 4

The Department of the Air Force has agreed to negotiate over matters concerning the technology of performing work pursuant to § 7106(b)(1). The Union represents Air Reserve Technicians. During bargaining, the Union presents the following proposals:

Proposal 1:

The Agency shall use temporary employees to provide coverage of fire station duties.

Proposal 2:

The aircraft maintenance technician will have a secure phone line and FTS phone line at her work station.

Proposal 3:

Military insignia may not be displayed on any part of the uniform worn by Air Reserve Technicians while in a civilian status. In lieu of "Air Force" tape on the uniforms, the tape is replaced with "DoD Civilian" tape or patch for Flight Suits.

Proposal 4:

For the purposes of administering this nationwide agreement and other appropriate official business, the local president, chief steward or their designees will have the use of nationwide Air Force Telephone systems at the union office.

Proposal 5:

The Agency shall provide to all bargaining unit employees secure areas in their immediate office areas for storing personal property.

Question: Has the agency obligated itself to bargain over any of the proposals by agreeing to negotiate over technology? If so, which ones?

Exercise 5

The Union and the Agency enter into a memorandum of understanding (MOU) in which they agree to “bargain over matters concerning the ‘technology, methods, and means of performing work’ within the meaning of 5 U.S.C. § 7106(b)(1).” After the MOU is implemented, during bargaining, the Union presents the following proposals:

Proposal 1:

The extent to which an employee uses the automated system to perform his or her work, and the number of electronic files used, will be left up to the judgment of the individual employee.

Proposal 2:

The Agency shall not discipline an employee because of the number of pages the employee has printed from the automated system, where the unit member has a legitimate need or use for the documents printed.

Proposal 1 Questions

Although the Agency agrees to Proposal 1 at the bargaining table, on agency head review, the Agency’s Executive Director subsequently disapproves the provision because she claims that Proposal 1 is permissively negotiable pursuant to § 7106(b)(1).

1. May the Executive Director disapprove Proposal 1 on the basis that it concerns a matter encompassed within § 7106(b)(1)?
2. Assume that the MOU does not exist. Would this change your answer?

Proposal 2 Question

At the bargaining table, the Agency refuses to bargain over Proposal 2. Subsequently, the Union files a petition for review of the negotiability of Proposal 2 with the FLRA.

Agency’s Position

The Agency asserts that Proposal 2 is outside the duty to bargain because it affects management’s right to discipline employees under § 7106(a)(2)(A).

Union’s Position

The Union asserts that Proposal 2 concerns the “technology, methods, and means of performing work” within the meaning of § 7106(b)(1) and that the Agency is therefore required to bargain over it pursuant to the MOU. Alternatively, the Union argues that Proposal 2 does not affect the Agency’s right to discipline employees, and that even if it does affect this right, Proposal 2 is negotiable as an appropriate arrangement under § 7106(b)(3).

1. In what order will the Authority evaluate the parties' competing claims about the applicable subsection of § 7106?