

procedures provided in §§1423.14 to 1423.29, inclusive, shall be followed insofar as applicable.

PART 1424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

Sec.

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AUTHORITY: 22 U.S.C. 4107(c).

SOURCE: 46 FR 45873, Sept. 15, 1981, unless otherwise noted.

§ 1424.1 Conditions governing review.

Pursuant to the authority contained in 22 U.S.C. 4107 (a)(3) and (c)(1) the Board will consider a direct appeal concerning whether a matter proposed to be bargained is within the obligation to bargain under the Foreign Service Act of 1980 as follows: If the Department is involved in collective bargaining with an exclusive representative and alleges that the duty to bargain in good faith does not extend to any matter proposed to be bargained because, as proposed, the matter is inconsistent with applicable law, rule or regulation the exclusive representative may appeal the allegation to the Board when it disagrees with Department's allegation that the matter as proposed to be bargained is inconsistent with applicable law, rule or regulation.

§ 1424.2 Who may file a petition.

A petition for review of a negotiability issue may be filed by the exclusive representative which is a party to the negotiations.

§ 1424.3 Time limits for filing.

(a) The time limit for filing an appeal under this part is fifteen (15) days from the Department's allegation, which was requested in writing by the exclusive representative, is served on the ex-

clusive representative. The Department shall make the allegation in writing and serve a copy on the exclusive representative: *Provided, however,* That review of a negotiability issue may be requested by the exclusive representative under this part without a prior written allegation by the Department if a written allegation has not been served upon the exclusive representative within ten (10) days after the date of receipt by any Department bargaining representative at the negotiations of a written request for such allegation.

§ 1424.4 Content of petition; service.

(a) A petition for review shall be dated and shall contain the following:

(1) A statement setting forth the matter proposed to be bargained as submitted to the Department;

(2) A copy of all pertinent material, including the Department's allegation in writing that the matter, as proposed, is not within the duty to bargain in good faith, and other relevant documentary material; and

(3) Notification by the petitioning labor organization whether the negotiability issue is also involved in an unfair labor practice charge filed by such labor organization under part 1423 of this subchapter and pending before the General Counsel.

(b) A copy of the petition including all attachments thereto shall be served on the Secretary and on the principal Department bargaining representative at the negotiations.

§ 1424.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to part 1423 of this subchapter which involves a negotiability issue, and the labor organization also files pursuant to this part a petition for review of the same negotiability issue, the Board and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other

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procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Board, the appropriate Regional Director and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve the Department's allegation that the duty bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated changes in conditions of employment may only be filed under this part.

§ 1424.6 Position of the Department; time limits for filing; service.

(a) Within thirty (30) days after the date of receipt by the Secretary of a copy of the petition for review of a negotiability issue the Department shall file a statement—

(1) Withdrawing the allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained; or

(2) Setting forth in full its position on any matters relevant to the petition which it wishes the Board to consider in reaching its decision, including a full and detailed statement of its reasons supporting the allegation. The statement shall cite the section of any law, rule or regulation relied upon as a basis for the allegation.

(b) A copy of the Department's statement of position including all attachments thereto shall be served on the exclusive representative.

§ 1424.7 Response of the exclusive representative; time limits for filing; service.

(a) Within fifteen (15) days after the date of receipt by an exclusive representative of a copy of the Department's statement of position the exclusive representative shall file a full and detailed response stating its position and reasons for disagreeing with the Department's allegation that the matter, as proposed to be bargained, is inconsistent with applicable law or rule or regulation.

(b) A copy of the response of the exclusive representative including all attachments thereto shall be served on the Secretary and on the Department's representative of record in the proceedings before the Board.

§ 1424.8 Additional submissions to the Board.

The Board will not consider any submission filed by any party, whether supplemental or responsive in nature, other than those authorized under §§ 1424.2 through 1424.7 unless such submission is requested by the Board; or unless, upon written request by any party, a copy of which is served on all other parties, the Board in its discretion grants permission to file such submission.

§ 1424.9 Hearing.

A hearing may be held, in the discretion of the Board, before a determination is made under 22 U.S.C. 4107(a)(3). If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

§ 1424.10 Board decision and order; compliance.

(a) Subject to the requirements of this part the Board shall expedite proceedings under this part to the extent practicable and shall issue to the exclusive representative and to the Department a written decision on the allegation and specific reasons therefor at the earliest practicable date.

(b) If the Board finds that the duty to bargain extends to the matter proposed to be bargained, the decision of the Board shall include an order that the Department shall upon request (or as otherwise agreed to by the parties) bargain concerning such matter. If the Board finds that the duty to bargain does not extend to the matter proposed to be bargained, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue. If the Board finds that the duty to bargain extends to the matter proposed to be bargained only at the election of the Department, the Board shall so state and issue an order dismissing the petition for review of the negotiability issue.