

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2429

Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of opportunity to provide comments.

SUMMARY: The FLRA is considering revising its regulations to permit the filing and/or service of documents by facsimile transmissions. The FLRA is also considering revising the method of determining the date of filing and service of documents by private delivery services. By separate notice published today, the Federal Service Impasses Panel, an entity within the FLRA, is proposing to revise its regulations to, among other things, permit filing and service of documents by facsimile transmissions.

DATES: Written comments in response to this notice will be considered if received by close of business on July 8, 1996. Extensions of time will not be granted.

ADDRESSES: Mail or deliver written comments to the FLRA, 607 14th Street, NW., Suite 415, Washington, D.C. 20424-0001. Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 5 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: James H. Adams, Acting Director, Case Control Office, FLRA, 607 14th Street, NW., Suite 415, Washington, D.C. 20424-0001, Telephone: FTS or Commercial (202) 482-6540.

SUPPLEMENTARY INFORMATION: To assist the Authority, the Office of Administrative Law Judges, the Office of the General Counsel, and the Regional Offices (collectively referred to herein as the "FLRA") in determining whether to revise the FLRA's regulations governing the filing and/or service of documents,

the FLRA invites responses to the following questions. Questions 1 through 9 concern facsimile transmissions; question 10 concerns private delivery services.

It appears that amending the FLRA's regulations to permit the filing and/or service of documents by facsimile transmissions may be desirable to parties attempting to achieve timely filings and service. However, allowing filing and service by facsimile raises questions relating to such matters as how to determine (and resolve disputes over) the timeliness of filing and/or service; potential difficulties caused by transmission of lengthy documents and/or attachments; and the current requirement that the parties file with the Authority an original and four copies of all documents and attachments. In considering matters such as these, the FLRA invites the views of all interested persons on any or all of the following questions.

1. The number of pages transmitted by facsimile may exceed the capacity of the receiving facsimile equipment, and the time necessary to receive facsimile transmissions of lengthy documents may, in turn, affect others' abilities to use that equipment to complete filings and/or service. In view of these technical concerns, should there be a limitation on the number of pages that may be transmitted to the FLRA and parties by facsimile? If so, what limitations?

2. In addition, or as alternatives, to any page limitations, should the filing and/or service of documents by facsimile transmissions be limited to particular types of cases or documents? For example:

a. Should filing and/or service by facsimile be limited to documents that must be filed within short time limits and that usually are not lengthy, such as requests for extensions of time and motions for reconsideration?

b. Should filing and/or service by facsimile be limited to cases for which filing forms have been developed, such as unfair labor practice charges and representation petitions?

3. Should attachments be permitted to be filed by facsimile? If not, what should be the time limit for the filing of attachments after filing of the main documents by facsimile?

4. What should be the requirements for establishing proof of filing and/or service by facsimile?

5. In order to facilitate the successful transmission of documents by facsimile by, for example, ensuring that the facsimile equipment receiving the documents is functioning properly, should a party be required to obtain "permission to transmit" from the FLRA or the parties, as applicable, before filing and/or service? If so, what should constitute proof of permission to file or serve by facsimile transmission? What should be the consequences if permission to transmit is denied?

6. What approach should be used to determine the date of service of a document that is delayed because, for example, a facsimile machine at the receiving office—either the FLRA or the receiving parties—is not functioning properly or because the document is placed in a long queue? Should applicable time limits be tolled or extended? What if the time limit establishes jurisdiction?

7. What should be the procedure when a facsimile transmission is incomplete?

8. Assuming that a "hard copy" of a document filed by facsimile transmission is required, what should be the time limit for submitting that copy?

9. Should the FLRA offices and/or the offices of the parties on whom documents are served accept facsimile transmissions on a 24-hour basis or only during regular office hours? If the answer is a 24-hour basis, how should the timeliness of documents be determined when a facsimile transmission is not completed because problems occur, such as an equipment malfunction, outside regular office hours?

10. Currently, the date of filing or service of a document that is filed or served by private delivery service is the date the document is received by the FLRA or the party served. Should the FLRA revise its regulations to provide that the date of filing and/or service of documents that are filed by private delivery service is the date the document is deposited with the private delivery service? How would a party establish proof of filing and/or service by private delivery service?

In addition to the foregoing, please address any other concerns, issues and matters that may arise as a result of revisions to the regulations governing the filing of documents with the

Authority, the Office of Administrative Law Judges, the General Counsel, and the Regional Offices and the service of documents on other parties.

Dated: May 31, 1996.

For the FLRA.

James H. Adams,

Acting Director, Case Control Office.

[FR Doc. 96-14099 Filed 6-5-96; 8:45 am]

BILLING CODE 6727-01-P

5 CFR Parts 2470, 2471, 2472, and 2473

Federal Service Impasses Panel; General; Procedures of the Panel; Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules; Miscellaneous Requirements

AGENCY: Federal Service Impasses Panel, FLRA.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Federal Service Impasses Panel proposes to revise its regulations to take advantage of existing technology and to make them more easily understood by agencies, labor organizations, and individuals. The proposed revisions will allow parties to file requests for Panel assistance, and other documents, by facsimile transmission and will generally reorganize and modify those portions of the rules pertaining to filing and service. A proposed new section will establish procedures by which a party to a Panel proceeding may seek to obtain a subpoena. These proposed revisions will make the regulations clearer and more user-friendly and will provide quicker access to the Panel's procedures. By separate notice published today, the Federal Labor Relations Authority is providing interested persons with the opportunity to submit written comments concerning, among other things, contemplated revisions to the FLRA's regulations to permit the filing and/or service of documents by facsimile transmissions.

DATES: Written comments in response to this notice will be considered if received by close of business on July 8, 1996. Extensions of time will not be granted.

ADDRESSES: Mail or deliver written comments to the Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 5

p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Linda A. Lafferty, Executive Director, Federal Service Impasses Panel, 607 14th Street, NW., Suite 220, Washington, D.C. 20424-0001. Telephone (202) 482-6670.

SUPPLEMENTARY INFORMATION: The Federal Service Impasses Panel established an internal work group to study and evaluate its regulations. The following section-by-section analysis reflects proposed revisions to Parts 2470—General; Part 2471—Procedures of the Panel; and Part 2472—Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules. Following this analysis, an explanation of proposed Part 2473—Miscellaneous Requirements, which contains a new section on subpoenas, is provided.

Part 2470

Section 2470.1

A new last sentence has been added to reflect the Panel's longstanding policy of encouraging parties to resolve disputes on terms that are mutually agreeable without the need for Panel action.

Part 2471

Section 2471.2

A form is available for use in filing a request for assistance with the Panel, but its use is not required, provided that the request includes all of the information set forth in § 2471.3. This provides a filing party with the choice of using the prepared form or submitting the required information in some other format. The Panel's address and phone number are updated to reflect its current office location.

Section 2471.3

Requiring the filing party to provide the addresses, phone numbers, and facsimile numbers of the parties to a dispute will facilitate communication between the Panel and parties and will result in enhanced customer service. The revision in paragraph (b)(4) reflects developments in FLRA case law, set forth in *Commander, Carswell Air Force Base, Texas and American Federation of Government Employees, Local 1364*, 31 FLRA 620 (1988), which allows the Panel to resolve duty-to-bargain questions under certain circumstances.

Section 2471.4

The Panel's address and phone number are updated to reflect its current office location. The Panel's facsimile

number is provided consistent with the changes described in § 2471.5 which allow filing of requests for assistance, and other documents, by this method.

Section 2471.5

The Panel recognizes that the use of facsimile systems have become more prevalent in both the private and public sectors and that private delivery services are commonly used as an alternative to the United States Postal Service. After careful consideration, it has been determined that allowing the limited use of these methods of communication will provide parties with quicker access to the Panel's services.

Paragraph (a) establishes the requirements for filing and service of requests for Panel assistance and requests for approval of a binding arbitration procedure. Paragraph (a)(1) allows a filing party to submit a request by a variety of methods, including facsimile transmission and private delivery service. A party filing a request by facsimile transmission must submit an original for the Panel's records, but failure to do so shall not affect the validity of the filing, if otherwise proper. Paragraph (a)(2), which establishes service requirements, provides the same variety of methods as paragraph (a)(1), except that the filing party may use facsimile transmission only with the permission of the person receiving the request.

Paragraph (b) establishes the requirements for filing and service of documents other than requests for assistance. Paragraphs (b)(1) and (b)(2) provide for filing and service of documents with the Panel by the same methods established in paragraph (a)(1) and (a)(2) except that advance permission is required before a document other than a request may be filed with the Panel by facsimile transmission.

Paragraph (d) establishes a method for determining the date of service for documents served by private delivery service or by facsimile transmission.

Paragraph (e) establishes a revised format for documents filed with the Panel; it also states affirmatively that nonconforming documents may, at the Panel's discretion, be rejected.

Section 2471.6

Paragraph (a)(2) establishes that when the Panel asserts jurisdiction, it may recommend procedures for impasse resolution and/or directly assist the parties through whatever methods the Panel considers appropriate. The most common procedures used by the Panel are now listed.