

**CASE DIGEST:** *SSA, Office of Hearings Operations*, 71 FLRA 123 (2019) (Member DuBester dissenting)

This case concerned the Agency's procedure for assessing employees' performance. The grievance alleged an employee should have received an "outstanding" rather than "successful" rating. The Arbitrator found that the Agency failed to properly consider the grievant's self-assessment and rebuttal to the Agency's reasons for denying her the more favorable rating and that it erred when it relied on certain evidence in assigning her rating. On exceptions, the Agency argued that the award was contrary to law and Agency policy because the Arbitrator allegedly erroneously found that the Agency's performance assessment system conflicted with government-wide regulations. The Authority found that the Agency's exceptions relied on a misinterpretation of the award, as the Arbitrator had determined that the Agency's appraisal process was a fair and appropriate procedure but found that the Agency had not properly applied it to the grievant. Therefore, the Authority concluded that the Agency had not established that the award was contrary to law, and denied the Agency's exception.

Member DuBester dissented. He found that the majority misapplied Authority precedent to improperly find that the EEO complaint and the grievance concerned the same matter.

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.