

CASE DIGEST: *AFGE, Nat'l ICE Council 118 & U.S. DHS, U.S. ICE, Enforcement & Removal Operations, 73 FLRA 309 (2022)*
(Chairman DuBester dissenting)

The case involves a dispute over whether the Agency was allowed to implement a training policy without bargaining with the Union. The Arbitrator found that implementation of the policy was covered by an article of the parties' agreement concerning training, and therefore, the Agency did not have a duty to bargain. The Union filed exceptions to the award, arguing that the award was contrary to the Federal Service Labor-Management Relations Statute (Statute) and failed to draw its essence from the parties' agreement. The Authority found that the award was consistent with the Statute and Authority precedent regarding the covered by doctrine. The Authority also found that the award drew its essence from the parties' agreement because the Union failed to demonstrate how the Arbitrator's interpretation was implausible. Accordingly, the Authority denied the Union's exceptions and upheld the award.

Chairman DuBester dissented. In his view, the subject matter of the change at issue was not covered by the parties' agreement, and the Union did not waive its right to bargain over the change pursuant to the language in the agreement. Based on this conclusion, he would also find that the Arbitrator should have addressed whether the agreement separately provided for mid-term bargaining regarding the change.

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.