## Petition for Review of Negotiability Issues for Use with Disapproved Provisions

### USE THIS FORM ONLY IF THE UNION IS SEEKING REVIEW OF A PROVISION AGREED TO BY THE UNION AND THE AGENCY REPRESENTATIVE THAT HAS BEEN DISAPPROVED BY THE AGENCY HEAD ON REVIEW PURSUANT TO 5 U.S.C. § 7114(c).

**Important Information:** This form is to be used by the Union to initiate a negotiability proceeding and provide the Agency with notice that the Union requests a decision from the Authority that a specific provision is legal. Section 2424.22 of the Authority’s Regulations requires the Union in the petition for review to, among other things, set out the exact language of the provision(s), explain the meaning of the language, explain how it is intended to operate, explain technical or unusual terms, and provide copies of materials that support the Union’s position.

The information requested below may be provided on this form or in a separately created document. The form is available at [www.flra.gov](http://www.flra.gov/), in a format that can be completed using standard word processing software. If your entire petition is more than 10 pages long, then you must include a table of contents. If you have questions about completing this form, please contact the Authority’s Office of Case Intake and Publication at (771) 444-5805.

The regulations governing negotiability proceedings are in 5 C.F.R. part 2424, and are available at [www.flra.gov](http://www.flra.gov/).

On receipt of the petition for review, a representative of the Authority will likely schedule a conference concerning this petition. However, parties must observe all time limits, regardless of whether a post-petition conference is conducted or may be conducted.

## Part I – Background

|  |  |
| --- | --- |
| **1. Name and Address of Petitioning Union:** | **2. Union Representative Contact Information:** |
| Name: | Name: |
| Address: | Address (if different from Question 1): |
| Title: |
| Phone: |
| Fax: |
| Email: |

|  |  |
| --- | --- |
| **3. Name and Address of Agency:** | **4. Agency Bargaining Representative Contact Information:** |
| Name: | Name: |
| Address: | Address (if different from Question 3): |
| Title: |
| Phone: |
| Fax: |
| Email: |

1. **Agency Head or Agency-Head Designee Contact Information:**

Name:

Address:

Title:

Phone:

Fax:

Email:

You must answer each of the following questions. Where narrative/explanatory answers are required, for each question you may either: (1) type your complete response; or (2) type “see attached” and include your answers as an attachment.

For questions about filing requirements, contact the Office of Case Intake and Publication at (771) 444-5805.

1. How many provisions are in dispute?
2. What was the date of the Agency-Head disapproval?

i. Attach a copy of the disapproval.

1. Are there or were there any related Court, FLRA, Federal Service Impasses Panel (FSIP), or other proceedings concerning the same provisions?

[  ] Yes      [  ] No

8a. If Yes, which of the following proceedings:

i. An unfair-labor-practice charge?

[  ] Yes      [  ] No

If Yes, explain in detail how the unfair-labor-practice charge is related to this negotiability proceeding and provide the following:

(1) What date was it filed?

(2) What is the status of the case?

(3) What is the case number?

(4) Attach copies of relevant documents, such as a copy of the unfair-labor-practice charge itself.

ii. A proceeding before the FSIP?

[  ] Yes      [  ] No

If Yes, explain in detail how the proceeding before the FSIP is related to this negotiability proceeding and provide the following:

(1) What date was it filed?

(2) What is the status of the case?

(3) What is the case number?

(4) Attach copies of relevant documents, such as a copy of the Request for Assistance.

iii. A related petition for review of negotiability issues?

[  ] Yes      [  ] No

If Yes, explain in detail how the petition for review of negotiability issues is related to this negotiability proceeding and provide the following:

(1) What date was it filed?

(2) What is the status of the case?

(3) What is the case number?

iv. A related grievance?

[  ] Yes      [  ] No

If Yes, explain in detail how the grievance is related to this negotiability proceeding and provide the following:

(1) What date was it filed?

(2) What is the status of the case?

(3) What is the case number?

(4) Attach copies of relevant documents, such as a copy of the grievance itself.

## Part II – Alternative Dispute Resolution (ADR)

The Authority offers ADR services to help parties resolve their negotiability disputes through its Collaboration and Alternative Dispute Resolution program (CADR). CADR provides an alternative to traditional case processing and is available on a voluntary basis.

9. Are you interested in attempting to resolve this matter with the assistance of CADR?

[  ] Yes      [  ] No [ ] I would like more information

If you are interested in CADR assistance or information regarding any of its services, you may contact the CADR staff at (771) 444-5802.

## Part III – The Provisions

**You must answer questions 10 through 13 for each provision.** Where narrative/explanatory answers are required, for each box you may either: (1) type your complete response; or (2) type “see attached” and include your answers as an attachment. Each party has the burden to give sufficiently detailed explanations to enable the Authority to understand the party’s position regarding the meaning, operation, and effects of a provision. A party’s failure to provide such explanations may affect the Authority’s decision in a manner that is adverse to the party. 5 C.F.R.§ 2424.32(c). **If you type your responses on this form, then make a separate copy of questions 10 through 13 for each provision.**

**PROVISION \_\_\_\_\_\_\_\_\_**

10. Set out the exact wording of the provision sought to be declared legal.

11. Explain the meaning of the provision including: any special terms or phrases, technical language, or other words that are not in common usage.

12. Describe how the provision is intended to work and what impact it will have. Where a provision has previously been included in the parties’ collective-bargaining agreement, describe how the provision has worked and what impact it had. Where the provision concerns a particular work situation, or other particular circumstances, describe the situation or circumstances that will enable the Authority to understand how the provision is intended to apply.

13. If the Agency Head has explained the basis of any allegation that the provision is illegal, you may choose to attach a statement describing your legal arguments concerning the legality of these provisions. You may also wait and provide your arguments in response to the Agency’s statement of position. If you choose to provide your legal arguments with this petition, you may explain, but not change, those arguments in later filings.

For all legal arguments, cite any law, rule, regulation, section of a collective-bargaining agreement, or other authority relied on in your argument or referenced in the provision. Explain how the cited law, rule, regulation, section of a collective-bargaining agreement, or other authority relates to your argument or the provision. Attach to this petition a copy of all such material, except for federal statutes, government‑wide regulations, or judicial and administrative decisions.

Are copies of materials attached?

[  ] Yes      [  ] No

If yes, list the materials attached:

## Part IV – Hearing

14. Do you believe that a hearing or other fact-finding procedure is necessary to resolve any issues presented in this case? *See* 5 C.F.R. § 2424.31. (When answering this question, consider that the Authority rarely grants hearing requests. *Id.* § 2424.22(c)(4).)

[  ] Yes      [  ] No

14a. If Yes, explain what those issues are and why they require a hearing.

## Part V – Responsibilities of the Union

After filing the petition for review, the Union is responsible for participating in any conference and responding to any Authority Order. Failure to participate in a conference under § 2424.23 of the Authority’s Regulations, a direction or proceeding under § 2424.31, or other failure to provide timely or responsive information pursuant to an Authority Order may result in dismissal of the petition for review. 5 C.F.R. § 2424.32(e).

**Part VI – Checklist with Statement of Service and Signature**

**All documents filed with the Authority must comply with the requirements set forth in part 2429 of the Authority’s Regulations.**

A complete copy (including all attachments) of a Union’s petition for review must:

• Be served by certified mail, first-class mail, commercial delivery, in person, or email (but only when the receiving party has agreed to be served by email) on:

(1) the Principal Agency Bargaining Representative at the negotiations; and

(2) the Head of the Agency (or designee). 5 C.F.R. §§ 2424.2(g), 2429.27(b).

• Contain a signed and dated statement of service with names and addresses of parties served, date of service, nature of document served, and method of service. (See below.)

5 C.F.R. § 2429.27(c).

• Contain an original and four (4) complete and legible copies of all documents.  5 C.F.R. § 2429.25.

* Be addressed to:

## Case Intake and Publication Federal Labor Relations Authority Docket Room, Suite 201 1400 K Street, NW Washington, D.C. 20424-0001

## STATEMENT OF SERVICE

I certify that a complete copy of the Union’s petition for review, including all attachments, in the case of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [UNION] and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [AGENCY], was filed with the Office of Case Intake and Publication, Federal Labor Relations Authority, Washington, D.C. by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [indicate method of service], and was sent this day to:

**Agency Principal Bargaining Representative**

Name:

Title:

Address:

Phone:

Method of Service: [ ] certified mail

[ ] first-class mail

[ ] commercial delivery (type: FedEx, UPS, etc.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] personal delivery

[ ] email (but only when the receiving party has agreed to service by email under 5 C.F.R. § 2429.27(b)(6))

[ ] other (please specify) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**The Head of the Agency (or designee)**\*/  
Name:

Title:

Address:

Phone:

Method of Service: [ ] certified mail

[ ] first-class mail

[ ] commercial delivery (type: FedEx, UPS, etc.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ] personal delivery

[ ] email (but only when the receiving party has agreed to service by email under 5 C.F.R. § 2429.27(b)(6))

[ ] other (please specify) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Name of filing party

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Union’s representative

\*/For example, for components of the U.S. Department of Labor, the Head of the Agency (or “Agency Head”) is the Secretary of Labor, or the Secretary’s designee.