

addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served, if properly addressed, is deposited in the U.S. mail, deposited with a commercial-delivery service that will provide a record showing the date the document was tendered to the delivery service, or delivered in person after permission to do so is granted. Where service is made by electronic or facsimile transmission, the date of service shall be the date of transmission.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under this section, together with any enclosure filed therewith, shall be typewritten on 8½ × 11 inch plain white paper, shall have margins no less than 1 inch on each side, shall be in typeface no smaller than 10 characters per inch, and shall be numbered consecutively. Nonconforming papers may, at the Panel's discretion, be rejected.

[48 FR 19694, May 2, 1983, as amended at 61 FR 41294, Aug. 8, 1996; 77 FR 5988, Feb. 7, 2012; 89 FR 20844, Mar. 26, 2024]

§ 2471.6 Investigation of request; Panel procedures; approval of binding arbitration.

(a) Upon receipt of a request for consideration of an impasse, the Panel or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Panel shall either:

(1) Decline to assert jurisdiction in the event that it finds that no impasse exists or that there is other good cause for not asserting jurisdiction, in whole or in part, and so advise the parties in writing, stating its reasons; or

(2) Assert jurisdiction and

(i) Recommend to the parties procedures for the resolution of the impasse; and/or

(ii) Assist the parties in resolving the impasse through whatever methods and procedures the Panel considers appropriate. The procedures utilized by the Panel may include, but are not limited to: informal conferences with a Panel designee; factfinding (by a Panel designee or a private factfinder); written

submissions; show cause orders; oral presentations to the Panel; and arbitration or mediation-arbitration (by a Panel designee or a private arbitrator). Following procedures used by the Panel, it may issue a report to the parties containing recommendations for settlement prior to taking final action to resolve the impasse.

(b) Upon receipt of a request for approval of a binding arbitration procedure, the Panel or its designee will promptly conduct an investigation, consulting when necessary with the parties and with any mediation service utilized. After due consideration, the Panel shall promptly approve or disapprove the request, normally within five (5) workdays.

[45 FR 3520, Jan. 17, 1980, as amended at 61 FR 41294, Aug. 8, 1996]

§ 2471.7 Preliminary factfinding procedures.

When the Panel determines that a factfinding hearing is necessary under § 2471.6, and it appoints one or more of its designees to conduct such hearing, it will issue and serve upon each of the parties a notice of hearing and a notice of prehearing conference, if any. The notice will state:

(a) The names of the parties to the dispute;

(b) The date, time, place, type, and purpose of the hearing;

(c) The date, time, place, and purpose of the prehearing conference, if any;

(d) The name of the designated representatives appointed by the Panel;

(e) The issues to be resolved; and

(f) The method, if any, by which the hearing shall be recorded.

[45 FR 3520, Jan. 17, 1980, as amended at 48 FR 19694, May 2, 1983; 61 FR 41295, Aug. 8, 1996]

§ 2471.8 Conduct of factfinding and other hearings; prehearing conferences.

(a) A designated representative of the Panel, when so appointed to conduct a hearing, shall have the authority on behalf of the Panel to:

(1) Administer oaths, take the testimony or deposition of any person under oath, receive other evidence, and issue subpoenas;

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(2) Conduct the hearing in open, or in closed session at the discretion of the designated representative for good cause shown;

(3) Rule on motions and requests for appearance of witnesses and the production of records;

(4) Designate the date on which posthearing briefs, if any, shall be submitted.

(5) Determine all procedural matters concerning the hearing, including the length of sessions, conduct of persons in attendance, recesses, continuances, and adjournments; and take any other appropriate procedural action which, in the judgment of the designated representative, will promote the purpose and objectives of the hearing.

(b) A prehearing conference may be conducted by the designated representative of the Panel in order to:

(1) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(2) Explore the possibilities of obtaining stipulations of fact;

(3) Clarify the positions of the parties with respect to the issues to be heard; and

(4) Discuss any other relevant matters which will assist the parties in the resolution of the dispute.

[45 FR 3520, Jan. 17, 1980, as amended at 48 FR 19694, May 2, 1983]

§ 2471.9 Report and recommendations.

(a) When a report is issued after a factfinding hearing is conducted pursuant to § 2471.7 and 2471.8, it normally shall be in writing and, when authorized by the Panel, shall contain recommendations.

(b) A report of the designated representative containing recommendations shall be submitted to the parties, with two (2) copies to the Executive Director, within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any.

(c) A report of the designated representative not containing recommendations shall be submitted to the Panel with a copy to each party within a period normally not to exceed thirty (30) calendar days after receipt of the transcript or briefs, if any. The Panel shall then take whatever action

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it may consider appropriate or necessary to resolve the impasse.

[45 FR 3520, Jan. 17, 1980, as amended at 61 FR 41295, Aug. 8, 1996]

§ 2471.10 Duties of each party following receipt of recommendations.

(a) Within thirty (30) calendar days after receipt of a report containing recommendations of the Panel or its designated representative, each party shall, after conferring with the other, either:

(1) Accept the recommendations and so notify the Executive Director; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Director; or

(3) Submit a written statement to the Executive Director setting forth the reasons for not accepting the recommendations and for not reaching a settlement of all unresolved issues.

(b) A reasonable extension of time may be authorized by the Executive Director for good cause shown when requested in writing by either party prior to the expiration of the time limits.

[45 FR 3520, Jan. 17, 1980, as amended at 48 FR 19694, May 2, 1983]

§ 2471.11 Final action by the Panel.

(a) If the parties do not arrive at a settlement as a result of or during actions taken under §§ 2471.6(a)(2), 2471.7, 2471.8, 2471.9, and 2471.10, the Panel may take whatever action is necessary and not inconsistent with 5 U.S.C. chapter 71 to resolve the impasse, including but not limited to, methods and procedures which the Panel considers appropriate, such as directing the parties to accept a factfinder's recommendations, ordering binding arbitration conducted according to whatever procedure the Panel deems suitable, and rendering a binding decision.

(b) In preparation for taking such final action, the Panel may hold hearings, administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in 5 U.S.C. 7132, or it may appoint or designate one or more individuals pursuant to 5 U.S.C. 7119(c)(4) to exercise such authority on its behalf.

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(c) When the exercise of authority under this section requires the holding of a hearing, the procedure contained in § 2471.8 shall apply.

(d) Notice of any final action of the Panel shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless they agree otherwise.

[45 FR 3520, Jan. 17, 1980, as amended at 48 FR 19694, May 2, 1983]

§ 2471.12 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either 5 U.S.C. 7119 or the procedures of the Panel shall be deemed to be superseded, unless such provisions are permitted under 5 U.S.C. 7135.

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATIONS NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

Subpart A—Purpose and Definitions

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2472.11 Final action by the Panel.

AUTHORITY: 5 U.S.C. 6131.

SOURCE: 48 FR 19695, May 2, 1983, unless otherwise noted.

Subpart A—Purpose and Definitions

§ 2472.1 Purpose.

The regulations contained in this Part are intended to implement the provisions of section 6131 of title 5 of

the United States Code. They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiations impasses arising from agency determinations not to establish or to terminate flexible and compressed work schedules.

§ 2472.2 Definitions.

(a) The term *the Act* means the Federal Employees Flexible and Compressed Work Schedules Act of 1982, Pub. L. 97-221, 5 U.S.C. 6120 *et seq.*

(b) The term *adverse agency impact* shall have the meaning set forth in 5 U.S.C. 6131(b).

(c) The term *agency* shall have the meaning set forth in 5 U.S.C. 6121(1).

(d) The term *duly authorized delegatee* means an official who has been delegated the authority to act for the head of the agency in the matter concerned.

(e) The term *agency determination* means a determination: (1) Not to establish a flexible or compressed work schedule under 5 U.S.C. 6131(c)(2); or (2) to terminate such a schedule under 5 U.S.C. 6131(c)(3).

(f) The terms *collective bargaining agreement* and *exclusive representative* shall have the meanings set forth in 5 U.S.C. 6121(8).

(g) The term *Executive Director* means the Executive Director of the Panel.

(h) The terms *designated representative* or *designee* of the Panel means a Panel member, staff member, or other individual designated by the Panel to act on its behalf.

(i) The term *flexible and compressed work schedules* shall have the meaning set forth in 5 U.S.C. 6121 *et seq.*

(j) The term *hearing* means a fact-finding hearing or any other hearing procedures deemed necessary to accomplish the purpose of 5 U.S.C. 6131.

(k) The term *impasse* means that point in the negotiation of flexible and compressed work schedules at which the parties are unable to reach agreement on whether a schedule has had or would have an adverse agency impact.

(l) The term *Panel* means the Federal Service Impasses Panel described in 5 U.S.C. 7119(c) or a quorum thereof.

(m) The term *party* means the agency or the exclusive representative participating in negotiations concerning

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flexible and compressed work schedules.

(n) The term *quorum* means a majority of the members of the Panel.

(o) The term *schedule(s)* means flexible and compressed work schedules.

[48 FR 19695, May 2, 1983, as amended at 61 FR 41295, Aug. 8, 1996]

Subpart B—Procedures of the Panel

§ 2472.3 Request for Panel Consideration.

Either party, or the parties jointly, may request the Panel to resolve an impasse resulting from an agency determination not to establish or to terminate a flexible or compressed work schedule by filing a request as hereinafter provided. A form is available for use by the parties in filing a request with the Panel. Copies are available on the FLRA's website at *www.flra.gov* or, with advance permission only, from the Office of the Executive Director, Federal Service Impasses Panel, Suite 300, 1400 K Street NW, Washington, DC 20424-0001. Telephone (771) 444-5762. Fax (202) 482-6674. Use of the form is not required provided that the request includes all of the information set forth in § 2472.4.

[89 FR 20844, Apr. 25, 2024]

§ 2472.4 Content of request.

(a) A request from a party or parties to the Panel for consideration of an impasse arising from an agency determination not to establish or to terminate a flexible or compressed work schedule under section 6131 (c)(2) or (c)(3) of the Act must be in writing and shall include the following information:

(1) Identification of the parties and individuals authorized to act on their behalf, including their addresses, telephone numbers, and facsimile numbers;

(2) Description of the bargaining unit involved in the dispute and the date recognition was accorded to the exclusive representative;

(3) Number, length, and dates of negotiation sessions held;

(4) A copy of any collective bargaining agreement between the parties and any other agreements concerning

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flexible and compressed work schedules;

(5) A copy of the schedule or proposed schedule, if any, which is the subject of the agency's determination;

(6) A copy of the agency's written determination and the finding on which the determination is based, including, in a case where the finding is made by a duly authorized delegatee, evidence of a specific delegation of authority to make such a finding; and

(7) A summary of the position of the initiating party or parties with respect to the agency's determination.

[48 FR 19695, May 2, 1983, as amended at 61 FR 41295, Aug. 8, 1996]

§ 2472.5 Where to file.

Requests to the Panel provided for in this part must either be filed electronically through use of the FLRA's eFiling system on the FLRA's website at *www.flra.gov*, or be addressed to the Executive Director, Federal Service Impasses Panel, Suite 300, 1400 K Street NW, Washington, DC 20424-0001. All inquiries or correspondence on the status of impasses or other related matters must be submitted by regular mail to the street address above, by using the telephone number (771) 444-5762, or by using the facsimile number (202) 482-6674.

[89 FR 20844, Mar. 26, 2024]

§ 2472.6 Filing and service.

(a) *Filing and service of request.* (1) Any party submitting a request for Panel consideration of an impasse filed pursuant to § 2472.3 of these rules shall file an original and one copy with the Panel unless the request is filed electronically as discussed below. A clean copy may be submitted for the original. Requests may be submitted electronically through use of the eFiling system on the FLRA's website at *www.flra.gov*, or by registered mail, certified mail, regular mail, or commercial delivery. Requests also may be accepted by the Panel if transmitted to the facsimile machine of its office, the number of which is (202) 482-6674. A party submitting a request by facsimile shall also file an original for the Panel's records, but failure to do so

shall not affect the validity of the filing by facsimile, if otherwise proper. While requests may also be submitted by in-person delivery to the FSIP, you must first obtain permission, by calling (771) 444-5762, and then schedule an appointment at least one business day in advance of submission. In-person delivery is accepted with permission, and by appointment only, Monday through Friday (except Federal holidays).

(2) The party submitting the request shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, and upon parties not so represented. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party. Service of a request may be made in person or by registered mail, certified mail, regular mail, or commercial delivery. With the permission of the person receiving the request, service may be made by facsimile or electronic transmission, or by any other agreed-upon method.

(b) *Filing and service of other documents.* (1) Any party submitting a response to, or other document in connection with, a request for Panel consideration of an impasse filed pursuant to § 2472.3 shall file an original and one copy with the Panel, with the exception of responses or documents that are filed simultaneously with the electronic filing of a request for Panel consideration. A clean copy may be submitted for the original. Responses or documents may be submitted electronically through use of the eFiling system on the FLRA's website at www.flra.gov, or by registered mail, certified mail, regular mail, or commercial delivery. Responses or documents also may be accepted by the Panel if transmitted to the facsimile machine of its office, the number of which is (202) 482-6674. A party submitting a response or document by facsimile shall also file an original for the Panel's records, but failure to do so shall not affect the validity of the filing by facsimile, if otherwise proper. While responses or documents may also be submitted by in-person delivery to the FSIP, you must first obtain permission, by calling (771) 444-5762, and then schedule an appointment at least

one business day in advance of submission. In-person delivery is accepted with permission, and by appointment only, Monday through Friday (except Federal holidays).

(2) The party submitting the document shall serve a copy of such request upon all counsel of record or other designated representative(s) of parties, or upon parties not so represented. Service of a document may be made in person or by registered mail, certified mail, regular mail, or commercial delivery. With the permission of the person receiving the document, service may be made by electronic or facsimile transmission, or by any other agreed-upon method.

(c) A signed and dated statement of service shall accompany each document submitted to the Panel, unless the document is a request under § 2472.3 that is filed electronically. For requests under § 2472.3 that are filed electronically, the filing party shall certify, in the FLRA's eFiling system and at the time of filing, that copies of the request and any supporting documents have been served as required. The statement of service, however filed, shall include the names of the parties and persons served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(d) The date of service or date served shall be the day when the matter served, if properly addressed, is deposited in the U.S. mail, deposited with a commercial-delivery service that will provide a record showing the date the document was tendered to the delivery service, or delivered in person after permission to do so is granted. Where service is made by electronic or facsimile transmission, the date of service shall be the date of transmission.

(e) Unless otherwise provided by the Panel or its designated representatives, any document or paper filed with the Panel under this part, together with any enclosure filed therewith, shall be typewritten on 8½ × 11 inch plain white paper, shall have margins no less than 1 inch on each side, shall be in typeface no smaller than 10 characters per inch, and shall be numbered consecutively. Nonconforming papers may, at the Panel's discretion, be rejected.