

Management Rights

- Management has the right to:
 - Determine the mission, budget, organization, number of employees, and internal security practices;
 - Hire, assign, direct, layoff, and retain employees;
 - Suspend, remove, reduce pay, and discipline employees;
 - Take whatever actions may be necessary to carry out agency mission during emergencies.

5 U.S.C. § 7106

Right to Negotiate Appropriate Arrangements

- BUT! Union can negotiate:
 - “procedures which management officials of the agency will observe in exercising any authority under this section”; and
 - “appropriate arrangements for employees affected by the exercise of authority under this section.”
- This is known as “impact and implementation” bargaining.

5 U.S.C. § 7106(b)

Examples of I&I Bargaining

- Management action: Re-assigning employees in a manner that reduced overtime pay.
- Union Proposal: Solicit volunteers for assignment, with management retaining right to assess qualifications among volunteers.
 - Finding: proper for I&I bargaining – proper procedure under the statute as long as management makes final selection for assignment

Dep't of Transp., FAA, 63 F.L.R.A. 502 (2009) (discussing "procedures" under § 7106(b)(2))

Examples of I&I Bargaining

- Management action: Installing metal detectors at prison yard.
- Union proposal: All watches that do not clear metal detectors will be confiscated, limiting "bottlenecking" of inmates – a safety hazard.
 - Finding: Proper for I&I bargaining – minimal burden on management, provides benefit for adversely affected employees.
- Union proposal: Install additional access gate to remove inmates during metal detector process.
 - Finding NOT proper for I&I bargaining – too much of an impact on management right to determine internal security practices.

AFGE Local 506 & BOP, FCC Coleman, 66 F.L.R.A. 819 (2012)

Maintaining Status Quo During Contract Bargaining

Maintaining Status Quo During Contract Bargaining

- “Where parties are bargaining over a proposed change in conditions of employment, an agency is generally obligated to maintain the status quo pending the completion of the bargaining, including impasse procedures.” *Space Sys. Div. Los Angeles*, 45 F.L.R.A. 899, 903-904 (1992)
- “It is well established that the duty to bargain extends to ground rules for negotiations.” *Dep’t of Treasury & NTEU*, 59 F.L.R.A. 703, 709 (2004)
- “[P]roposals which require an agency to maintain the status quo during the bargaining process, consistent with its obligation to bargain, are negotiable procedures under the Statute.” *Nat’l Weather Serv. Emps. Org. & Nat’l Weather Serv.*, 37 F.L.R.A. 392, 396 (1990)



Final Thoughts



Resources

- OCWR Materials
 - Labor-Management Relations in the Legislative Branch: Duty to Bargain and Scope of Bargaining FAQs
- FLRA Materials
 - ULP Case Law Outline
 - Guide to Negotiability
 - [flra.gov](https://www.flra.gov) → Resources & Training → Guides & Manuals
- Peter Broida, *A Guide to Federal Labor Relations Authority Law and Practice* (2016)

Preview of Coming Attractions

- Part 2 – the Duty to Bargain During Contract Bargaining
- Part 3 – the Duty to Bargain with a Contract in Effect
- Dates TBD!

Questions?