

paragraph (a)(2) of this section, and that the Authority cannot easily access (such as internal agency regulations or provisions of collective bargaining agreements);

(4) Arguments in support of any request for an expedited, abbreviated decision within the meaning of §2425.7 of this part;

(5) A legible copy of the award of the arbitrator; and

(6) The arbitrator's name, mailing address, and, if available and authorized for use by the arbitrator, the arbitrator's e-mail address or facsimile number.

(b) *What is not required.* Exceptions are not required to include copies of documents that are readily accessible to the Authority, such as Authority decisions, decisions of Federal courts, current provisions of the United States Code, and current provisions of the Code of Federal Regulations.

(c) *What is prohibited.* Consistent with 5 CFR 2429.5, an exception may not rely on any evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy that could have been, but were not, presented to the arbitrator.

(d) *Format.* You may file your exception on an optional form that is available on the FLRA's Web site at www.flra.gov, or in any other format that is consistent with paragraphs (a) and (c) of this section. You meet this requirement if you file your exception electronically through use of the FLRA's eFiling system on that Web site. Your failure to use, or properly fill out, an Authority-provided form will not, by itself, provide a basis for dismissing your exception.

[75 FR 42290, July 21, 2010, as amended at 77 FR 26434, May 4, 2012]

§ 2425.5 Content and format of opposition.

If you choose to file an opposition, then you may file your opposition on an optional form that is available on the FLRA's Web site at www.flra.gov, or in any other format that is consistent with this section. You meet this requirement if you file your opposition electronically through use of the FLRA's eFiling system on that Web

site. Your failure to use, or properly fill out, an Authority-provided form will not, by itself, provide a basis for dismissing your opposition. If you choose to file an opposition, and you dispute any assertions that have been made in the exceptions, then you should address those assertions—including any assertions that any evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy were raised before the arbitrator. If the excepting party has requested an expedited, abbreviated decision under §2425.7 of this part, then you should state whether you support or oppose such a decision and provide supporting arguments. You must provide copies of any documents upon which you rely (which you may upload as attachments if you file your opposition electronically through use of the FLRA's eFiling system), unless the Authority can easily access those documents (as discussed in §2425.4(b) of this part) or the excepting party provided them with its exceptions.

[77 FR 26435, May 4, 2012]

§ 2425.6 Grounds for review; potential dismissal or denial for failure to raise or support grounds.

(a) The Authority will review an arbitrator's award to which an exception has been filed to determine whether the award is deficient—

(1) Because it is contrary to any law, rule or regulation; or

(2) On other grounds similar to those applied by Federal courts in private sector labor-management relations.

(b) If a party argues that an award is deficient on private-sector grounds under paragraph (a)(2) of this section, then the excepting party must explain how, under standards set forth in the decisional law of the Authority or Federal courts:

(1) The arbitrator:

(i) Exceeded his or her authority; or

(ii) Was biased; or

(iii) Denied the excepting party a fair hearing; or

(2) The award:

(i) Fails to draw its essence from the parties' collective bargaining agreement; or

(ii) Is based on a nonfact; or

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(iii) Is incomplete, ambiguous, or contradictory as to make implementation of the award impossible; or

(iv) Is contrary to public policy; or

(v) Is deficient on the basis of a private-sector ground not listed in paragraphs (b)(1)(i) through (b)(2)(iv) of this section.

(c) If a party argues that the award is deficient on a private-sector ground raised under paragraph (b)(2)(v) of this section, the party must provide sufficient citation to legal authority that establishes the grounds upon which the party filed its exceptions.

(d) The Authority does not have jurisdiction over an award relating to:

(1) An action based on unacceptable performance covered under 5 U.S.C. 4303;

(2) A removal, suspension for more than fourteen (14) days, reduction in grade, reduction in pay, or furlough of thirty (30) days or less covered under 5 U.S.C. 7512; or

(3) Matters similar to those covered under 5 U.S.C. 4303 and 5 U.S.C. 7512 which arise under other personnel systems.

(e) An exception may be subject to dismissal or denial if:

(1) The excepting party fails to raise and support a ground as required in paragraphs (a) through (c) of this section, or otherwise fails to demonstrate a legally recognized basis for setting aside the award; or

(2) The exception concerns an award described in paragraph (d) of this section.

§ 2425.7 Requests for expedited, abbreviated decisions in certain arbitration matters that do not involve unfair labor practices.

Where an arbitration matter before the Authority does not involve allegations of unfair labor practices under 5 U.S.C. 7116, and the excepting party wishes to receive an expedited Authority decision, the excepting party may request that the Authority issue a decision that resolves the parties' arguments without a full explanation of the background, arbitration award, parties' arguments, and analysis of those arguments. In determining whether such an abbreviated decision is appropriate, the Authority will consider all of the circumstances of the case, including, but

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not limited to: whether any opposition filed under § 2425.3 of this part objects to issuance of such a decision and, if so, the reasons for such an objection; and the case's complexity, potential for precedential value, and similarity to other, fully detailed decisions involving the same or similar issues. Even absent a request, the Authority may issue expedited, abbreviated decisions in appropriate cases.

§ 2425.8 Collaboration and Alternative Dispute Resolution Program.

The parties may request assistance from the Collaboration and Alternative Dispute Resolution Program (CADR) to attempt to resolve the dispute before or after an opposition is filed. Upon request, and as agreed to by the parties, CADR representatives will attempt to assist the parties to resolve these disputes. If the parties have agreed to CADR assistance, and the time for filing an opposition has not expired, then the Authority will toll the time limit for filing an opposition until the CADR process is completed. Parties seeking information or assistance under this part may call or write the CADR Office at 1400 K Street, NW., Washington, DC 20424. A brief summary of CADR activities is available on the Internet at <http://www.flra.gov>.

§ 2425.9 Means of clarifying records or disputes.

When required to clarify a record or when it would otherwise aid in disposition of the matter, the Authority, or its designated representative, may, as appropriate:

(a) Direct the parties to provide specific documentary evidence, including the arbitration record as discussed in 5 CFR 2429.3;

(b) Direct the parties to respond to requests for further information;

(c) Meet with parties, either in person or via telephone or other electronic communications systems, to attempt to clarify the dispute or matters in the record;

(d) Direct the parties to provide oral argument; or

(e) Take any other appropriate action.