Federal Labor Relations Authority

§§ 2416.171–2416.999 [Reserved]

PART 2417—TESTIMONY BY EMPLOYEES RELATING TO OFFICIAL INFORMATION AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

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Source: 74 FR 11640, Mar. 19, 2009, unless otherwise noted.

Subpart A—General Provisions

§ 2417.101 Scope and purpose.

(a) These regulations establish policy, assign responsibilities and prescribe procedures with respect to:

(1) The production or disclosure of official information or records by employees, members, advisors, and consultants of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority or the Federal Service Impasses Panel; and

(2) The testimony of current and former employees, members, advisors, and consultants of the Authority, the General Counsel or the Panel relating to official information, official duties or official records, in connection with civil federal or state litigation in which the Authority, the General Counsel or the Panel is not a party.

(b) The FLRA intends these provisions to:

(1) Conserve the time of employees for conducting official business;

(2) Minimize the involvement of employees in issues unrelated to the mission of the FLRA;

(3) Maintain the impartiality of employees in disputes between private litigants; and

(4) Protect sensitive, confidential information and the deliberative processes of the FLRA.

(c) In providing for these requirements, the FLRA does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of the FLRA. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 2417.102 Applicability.

This part applies to demands and requests to current and former employees, members, advisors, and consultants for factual or expert testimony relating to official information or official duties or for production of official records or information, in civil legal proceedings in which the Authority, the General Counsel or the Panel is not a named party. This part does not apply to:

(a) Demands upon or requests for an employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of the Authority, the General Counsel or the Panel;

(b) Demands upon or requests for a former employee to testify as to matters in which the former employee was not directly or materially involved while at the Authority, the General Counsel or the Panel;

(c) Requests for the release of records under the Freedom of Information Act,
§ 2417.103 Definitions.

The following definitions apply to this part.
(a) Demand means an order, subpoena, or other command of a court or other competent authority for the production, disclosure, or release of records or for the appearance and testimony of an employee in a civil legal proceeding.

(b) Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer or other body that conducts a civil legal or administrative proceeding. Legal proceeding includes all phases of litigation.

(c) Employee means:

(i) Any current or former employee or member of the Authority, the General Counsel or the Federal Service Impasses Panel;

(ii) Any other individual hired through contractual agreement by or on behalf of the Authority or who has performed or is performing services under such an agreement for the Authority; and

(iii) Any individual who served or is serving in any consulting or advisory capacity to the Authority whether formal or informal.

This definition does not include: Persons who are no longer employed by the Authority, the General Counsel or the Panel and who agree to testify about general matters, matters available to the public or matters with which they had no specific involvement or responsibility during their employment with the Authority, the General Counsel or the Panel.

(d) Records or official records and information means: All information in the custody and control of the Authority, the General Counsel or the Panel, relating to information in the custody and control thereof, or acquired by an employee while in the performance of his or her official duties or because of his or her official status, while the individual was employed by or on behalf of the Authority, the General Counsel or the Panel.

(e) Request means any informal request, by whatever method, for the production of records and information or for testimony which has not been ordered by a court or other competent authority.

(f) Testimony means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 2417.201 General prohibition.

No employee of the Authority, the General Counsel or the Panel may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the Chairman of the FLRA or the Chairman’s designee.

§ 2417.202 Factors the FLRA will consider.

The Chairman or the Chairman’s designee, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the Chairman may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) Allowing such testimony or production of records would assist or hinder the FLRA in performing its statutory duties;

(d) Allowing such testimony or production of records would be in the best interest of the FLRA;

(e) The records or testimony can be obtained from other sources;