

including, but not limited to, electronic mail (hereinafter “e-mail”), facsimile transmission (hereinafter “fax”), regular mail, commercial delivery, or personal delivery—and the arbitrator’s selected method is controlling for purposes of calculating the time limit for filing exceptions. The following rules apply to determine the date of service for purposes of calculating the time limits for filing exceptions, and assume that the method(s) of service discussed are either consistent with the parties’ agreement or chosen by the arbitrator absent such an agreement:

(1) If the award is served by regular mail, then the date of service is the postmark date or, if there is no legible postmark, then the date of the award; for awards served by regular mail, the excepting party will receive an additional five days for filing the exceptions under 5 CFR 2429.22.

(2) If the award is served by commercial delivery, then the date of service is the date on which the award was deposited with the commercial delivery service or, if that date is not indicated, then the date of the award; for awards served by commercial delivery, the excepting party will receive an additional five days for filing the exceptions under 5 CFR 2429.22.

(3) If the award is served by e-mail or fax, then the date of service is the date of transmission, and the excepting party will not receive an additional five days for filing the exceptions.

(4) If the award is served by personal delivery, then the date of personal delivery is the date of service, and the excepting party will not receive an additional five days for filing the exceptions.

(5) If the award is served by more than one method, then the first method of service is controlling when determining the date of service for purposes of calculating the time limits for filing exceptions. However, if the award is served by e-mail, fax, or personal delivery on one day, and by mail or commercial delivery on the same day, the excepting party will not receive an additional five days for filing the exceptions, even if the award was postmarked or deposited with the commer-

cial delivery service before the e-mail or fax was transmitted.

(d) *Procedural and other requirements for filing.* Exceptions must comply with the requirements set forth in 5 CFR 2429.24 (Place and method of filing; acknowledgment), 2429.25 (Number of copies and paper size), 2429.27 (Service; statement of service), and 2429.29 (Content of filings).

§ 2425.3 Oppositions—who may file; time limits for filing; procedural and other requirements for filing.

(a) *Who may file.* A party to arbitration under the provisions of chapter 71 of title 5 of the United States Code may file an opposition to an exception that has been filed under § 2425.2 of this part.

(b) *Timeliness requirements.* Any opposition must be filed within thirty (30) days after the date the exception is served on the opposing party. For additional rules regarding computing the filing date, see 5 CFR 2425.8, 2429.21 and 2429.22.

(c) *Procedural requirements.* Oppositions must comply with the requirements set forth in 5 CFR 2429.24 (Place and method of filing; acknowledgment), 2429.25 (Number of copies and paper size), 2429.27 (Service; statement of service), and 2429.29 (Content of filings).

§ 2425.4 Content and format of exceptions.

(a) *What is required.* You must date your exception, unless you file it electronically through use of the eFiling system on the FLRA’s Web site at www.flra.gov. Regardless of how you file your exception, you must ensure that it is self-contained and that it sets forth, in full, the following:

(1) A statement of the grounds on which review is requested, as discussed in § 2425.6 of this part;

(2) Arguments in support of the stated grounds, including specific references to the record, citations of authorities, and any other relevant documentation;

(3) Legible copies of any documents (which you may upload as attachments if you file electronically through use of the FLRA’s eFiling system) that you reference in the arguments discussed in

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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