

## Article 34

### **Arbitration**

A. If the Service and Union fail to settle any grievance processed under the negotiated grievance procedure, such grievance, upon written request by the Union, may be submitted to arbitration within fifteen (15) calendar days from the date the Service's final decision is personally delivered or mailed. If service is by mail, five (5) additional calendar days shall be allowed.

In cases involving suspensions of less than fifteen (15) days, or adverse actions, requests for arbitration must be filed after receipt of the Notice of Decision, but not later than thirty (30) calendar days after the effective date of action.

B. Recognizing that both parties consider completion of the R-43 to be of concern and that the Federal Mediation and Conciliation Service prefers joint submission of the form, each party will participate in completion of the Form. It is recognized that the parties may differ in their view of the issue, the area from which arbitrators may be drawn, and so forth. Accordingly, either party may provide information on the form that is to be submitted to the FMCS, and will allow adequate space for the other party to provide input on the R-43. The Union may either submit a written request to management for arbitration, or a completed R-43, to fulfill the requirement of Section A.

(1) If the Union submits a written request, management will prepare a R-43 and submit it to the Union, which shall provide its input, sign the form, and submit it to the FMCS within seven calendar days.

(2) If the Union submits a completed R-43 to management, management will provide its input, sign the form, and submit it to the FMCS within seven calendar days.

The parties shall telephonically select an arbitrator within seven (7) calendar days after receipt of such a list. If they cannot agree upon one of the listed arbitrators, the

Service and the Union will each strike one arbitrator=s name from the list of five and then repeat this procedure. The remaining person shall be the duly selected arbitrator.

C. Either party may withdraw its grievance or request for arbitration of a grievance at any time. However, where withdrawal of the grievance or arbitration request results in charges from an arbitrator based on tardy cancellation of a planned hearing, the party withdrawing the grievance or request for arbitration shall pay all such charges.

D. If for any reason either party refuses to participate in the selection of an arbitrator, the FMCS will be empowered to make a direct designation of an arbitrator to hear the case.

E. The arbitrator=s fees and expenses shall be borne equally by the Service and the Union. Fees to be paid by the Service will be governed by existing regulations. The arbitration hearing will be held, if possible, on the Service=s premises during the regular day shift of the basic workweek. In the absence of operational emergency circumstances, the Service shall, if provided two weeks notice of the arbitration hearing, rearrange schedules so that all participants receive reasonable official time to prepare for, participate in, and travel to and from hearings. Participants appearing for the Union will be entitled to applicable travel and per diem if roundtrip travel of more than 100 miles is required.

If each party elects to receive a transcript, each shall pay half the cost. Either party may elect to receive a transcript initially ordered by the other at any time up to the conclusion of the hearing. If either party does not elect to receive a transcript ordered by the other party, the transcript shall be made available for inspection when post-hearing briefs are exchanged. A request to correct the record may be made up to seven calendar days following the inspection.

F. The arbitrator will be requested to render his or her decision as quickly as

possible but in any event not later than thirty (30) days after the conclusion of the hearing unless the parties mutually agree to extend the time limit.

If the arbitrator's decision has not been received within sixty (60) days after the closing of the record, the parties will go forward with a joint request to the FMCS calling for prompt issuance of the decision.

G. The arbitrator's award shall be final and binding on the parties. The award may be appealed, pursuant to law.