



May 4, 2020

Mr. Eddie Taylor
SSA Chief Spokesperson

Via Email Only

Today the AALJ provides notice that the ratification vote of the parties' collective bargaining agreement did not take place because it was premature and your insistence on our conducting it violates our negotiated grounds, AALJ's constitution, and well-established labor law. The negotiated ground rules, which you agreed to, unambiguously set forth a sequence of events required in order to execute the collective bargaining agreement (CBA). Section IX, B plainly provides "within two weeks of the parties' agreement on **all** articles or impasse panel decision" (emphasis added) the parties will meet to provide a proofread final version of the CBA. Since we did not agree to all articles, this could not take place until receipt of the Panel decision on the remaining articles. As such, we were required to meet by April 29, 2020 to proofread the entire CBA, which necessarily includes the tentatively agreed upon articles and those imposed by the Panel. The date of April 29, 2020 was required because it was two weeks after receipt of the Panel order, consistent with the ground rules.

On April 17, 2020, the AALJ requested you meet as required under our ground rules. You agreed to meet but refused to proofread the negotiated articles and insisted instead that we proofread the panel-imposed articles only. Further, you declared you would only meet to proofread the negotiated articles in the event they were ratified by the members. This violates the parties' ground rules. Section IX, C plainly provides "[t]he Union shall have sixty (60) days after signature of the new CBA to ratify, unless otherwise agreed to by the parties." The new CBA clearly includes both the agreed to articles and those imposed by the panel. The arbitrary date of May 4 was not mutually agreed to, is not 60 days after proofreading and signature of the new CBA, but instead was unilaterally imposed by you in obvious violation of our ground rules.

As you know, the nine Panel-imposed articles have been stayed by order of Judge Jackson until at least May 31, 2020 with a promise to Judge Jackson from you to agree to extend the stay should it be necessary for her reach a decision on the merits of the constitutional claim we raised in opposition to the Panel. Since imposition of these articles is stayed, they cannot be included in a ratification vote. Inasmuch these articles are part of the CBA, the ratification vote must be delayed until the Court reaches a determination on the merits because there is no severability in our ground rules allowing a partial contract to be submitted for ratification.

Furthermore, within the 20 tentatively agreed upon articles, there are references to Articles 9 Official Time, currently stayed. This affects material terms within Article 8, Agency's Equipment,

Article 10, Grievance Procedure, Article 11, Arbitration Procedures, Article 23, Health and Safety, Article 26, New Judge Orientation, and Article 27, Joint Technology Advisory Committee (JTAC). The affected terms cannot be reasonably interpreted without referencing the applicable stayed article. And it is unknown at this time whether the articles imposed by the Panel will have legal effect after Judge Jackson rules in this case.

Every article is dependent upon and governed by Article 1, the duration article imposed by the Panel. The most relevant stayed provision of Article 1 in the Panel order reads, "This Agreement will be implemented and become effective per the Parties' October 18, 2018, Ground Rules MOU." The Panel said, "Therefore, the Panel will impose the Agency's Proposal 1, which requires the parties to follow the terms that they agreed upon in the ground rules, which will determine when the agreement will become effective." Emphasis added.

The implementation of this CBA is directed by Article 1, which is stayed by Judge Jackson. Implementation of the 20 articles would not only be a gross violation of the negotiated ground rules but would also be inappropriate while the lawfulness of the Panel's orders is currently being decided on an expedited basis by the U.S. District Court.

Accordingly, a ratification vote by the members is not ripe at this juncture. However, at the mutually agreed upon appropriate time, we will be ready to do so as required by our ground rules.

We recognize that you have come to regret your failure to insist upon a severability provision in our ground rules. But you did not, and, in the absence of one, you cannot demand by fiat outcomes to which you have not agreed. The fact that you do not like it is neither a rational nor legal ground for us to accede to your unlawful demands. You might imagine that there have been parts of this process which we may have found distasteful as well, for example your dragging us before an unconstitutionally appointed tribunal that is glaringly biased. But, in every instance we have comported ourselves within the bounds of our negotiated ground rules and we will continue to do so. You have failed to do so in numerous instances, including your arbitrary deadline for a ratification vote that is not consistent with the negotiated ground rules. Regardless, Article 9 Official Time implementation is stayed and is a material term in six of the 20 tentatively agreed to articles. Article 1 Duration is stayed and implementation of these 20 articles is dictated by Article 1.

We also must unequivocally state AALJ has not, by any act or omission, waived any rights under the ground rules nor any rights afforded to it under any laws, rules or regulations pertaining to the parties' collective bargaining agreement. Your actions constitute bad faith bargaining.

Sincerely,

/s/ Melissa McIntosh
President, AALJ, IFPTE-AFL-CIO

cc: Commissioner Andrew Saul, Deputy Commissioner David Black, Judge Brian Saame, SSA Chief Negotiator