

PAST PRACTICES

SECTION 1. GENERAL PROVISIONS:

A. Definition: Pursuant to the Federal Labor-Management Relations Statute, 5 USC Chapter 71, and precedents of the Federal Labor Relations Authority, the Parties acknowledge that a past practice is established when a practice has been consistently exercised for an extended period of time, and followed by both Parties, or followed by one Party and not challenged by the other.

B. Requirements: In more specific terms, the Parties agree that to be a binding past practice, the practice must:

1. Concern conditions of employment of affected bargaining unit employees;
2. Be consistent within a section, which is physically co-located and under one supervisor;
3. Have the expectation of continuation;
4. Have mutuality (that is, the Party asserting the existence of a past practice must show that the other Party knew of the practice and either agreed to it, or at least acquiesced in it).
5. The Party which seeks to rely on an asserted practice has the burden of proof regarding the existence of such a practice.

SECTION 2. NOTICE: Supervisors who are considering changes in personnel policies, practices, or working conditions which may impact employees are encouraged to contact the Labor and Management Employee Relations Office for guidance. The Agency may change a past practice with prior notification to the union and appropriate bargaining in accordance with the "Bargaining During the Term of The Agreement" Article of this CBA.

SECTION 3. COVERED-BY: The Parties agree that the continuation of any past practice or alleged past practice not specifically covered by this collective bargaining agreement shall be subject to negotiations between the Parties.

Agreed: Agency: [Signature] Union: [Signature]
Date: 16 DEC 15
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