

AFGE Brothers and Sisters,

Below is a reminder about filing individual actions under the IVOL case, which was won by AFGE in August. Charlie Estudillo's message of September 10 is good advice, except that 45 days from the date of the arbitrator's award (August 10, 2009) is actually this Thursday, September 24, 2009. To be safe and to ensure that your individual case(s) is timely filed, please do so by close of business tomorrow, this Thursday, 9/24/09.

There are admittedly some complications about this that the union is looking into. For example, the fact that SSA has filed an appeal of (exceptions to) the Arbitrator's award, may or may not have an effect on the deadline for filing individual actions. As soon as we resolve questions like this, we will let you know.

But, in the meantime, to be safe and to ensure that your individual case(s) is timely filed, please do so by close of business tomorrow, this Thursday, 9/24/09.

Our attorney also recommends that grievances that are filed be pursued. If the agency resists processing a grievance on the basis of the filing of the exceptions, the matter should be put in a hold status, [held in abeyance], with no rights waived by the employee, until the exceptions are ruled upon.

Jim Campana
C220 Second VP

From: Estudillo, Charles
Sent: Thursday, September 10, 2009 7:34 PM
To: (deleted list)
Subject: IVOL Arbitration Decision: Deadline to File Grievances on Non-Selections

Dear LPs, RVPs, and Union Activists,

Below is the award on the IVOL arbitration that AFGE Attorney Martin Cohen recently won on behalf of the General Committee. Please note that in item #3 below, the arbitration established a 45 day time frame for the union to either file grievances or request audits under Article 26 Section 13 for employees who had applied for positions either with a paper application or through IVOL and who may have been adversely affected (not selected) for the position due to IVOL-related reasons. (For examples of these, please see the very end of this message.*)

It appears that, to meet the 45 day timeframe laid out by the Arbitrator, the union needs to either request the audit or file a grievance to protect employee's rights to a remedy. The audit procedure

starts with a request to the "Agency's labor relations officer" naming the union rep/reps who are authorized to perform the audit(s). See below. The grievance is referred to as a "Union" grievance, so at this point it appears, either the Local or Region would request the audit and/or file the grievance. So as not to miss any filing deadline, the request for an audit or grievance must be made by Sept. 23. The promotion packages are reviewed and held in the Regional Offices, that is why for the moment I am suggesting that the grievances and audits be requested at the Local or Regional level.

This was a great win for the union, let's make sure seize this opportunity and meet this time frame that has been won for us.

Charlie Estudillo, First VP Council 220

RELEVANT SECTION OF THE CONTRACT

ARTICLE 26 "MERIT PROMOTION"

http://afge220.org/documents/Pdf/2005_AFGE-SSA_National_Agreement.pdf

Section 13. Union Review of Competitive Actions

- A. The Union will be permitted to review (i.e. audit) competitive selection actions taken under this Article when it has reason to believe a discrepancy exists or when requested to do so by an employee.
- B. The Union will make the request to the Agency's labor relations officer. The Union will provide the Agency's labor relations officer with an updated written designation identifying the names of the Union representatives who are responsible for conducting audits. Any changes to the list of designated representatives will be sent to the Agency in writing. The representative designated to conduct the audit will not have been an applicant for the promotion package being audited.
- C. Employees who believe they were improperly excluded from consideration may request a review of the promotion package through the Union review process described below.
- D. If the employee chooses to use the Union procedure, he/she must make a written request to the Union within 15 working days after the selection is announced to all employees. A Union request under Subsection (A.) above must be made within 45 days.
- E. The Agency will make the pertinent records from the package available to the Union auditor within 7 working days of receipt of the written request. The Union will treat the information confidentially.
- F. If during the course of the audit additional information is determined necessary, such information shall be secured from the Agency's designated Management official.

G. If an error is discovered which resulted in an employee's exclusion from a BQL, the provisions of Section 14 of this article will apply.

H. Employees who elect to use the grievance procedure rather than the Union audit procedure must initiate action in accordance with Article 24, Grievance Procedure.

Fillable Standard Grievance Form SSA-2048
<http://afgec220.org/documents/Pdf/Griev_f.pdf>

What AFGE won in this case:

AWARD

This grievance is granted. The Agency shall:

1. Discontinue future use of IVOL effective immediately. All new competitive actions subject to Article 26 of the Master Agreement shall revert to the paper process previously in place, except that the Agency may continue to announce vacancies on the Internet as well as the SSA Intranet, and it may allow employees to submit paper SSA-45s or file them electronically. The electronic questionnaires may no longer be used.
2. In the case of actions taken under IVOL but for which selections have not yet been made, the positions shall be re-announced in the same manner as stated in ¶1. Paper and electronically submitted SSA-45s will be accepted. BQL lists and selections will be made in the same manner as before the introduction of IVOL; the electronic questionnaires will play no part in either the BQL or selection processes.
3. In the case of those actions taken under IVOL and for which selections were made, the following shall apply. The Union shall have 45 days from the date of this Award to either file grievances or request Article 26, §13, audits of actions for employees who applied and were allegedly adversely affected for IVOL-related reasons, such as that the employee filed a paper application or gave an erroneous answer on the questionnaire.
4. The Agency will post the attached NOTICE TO ALL EMPLOYEES on all SSA bulletin boards where bargaining unit employees represented by the American Federation of Government Employees are located.

The Arbitrator will retain jurisdiction for 60 days for the sole purpose of resolving any disputes arising out of the implementation of this Award. However, any grievances concerning individual actions that flow from this Award are to be processed under the normal provisions of Articles 24 and 25, except for the 45-day time period allowed in ¶3, above.

August 10, 2009

Charles Feigenbaum

Date

*Examples of some of the situations (there may be others) that are covered by this case are:

If you applied for a vacancy/promotion between 11/13/07 and the present using the IVOL process and one of the following applies to you:

You believe that you did not make the best-qualified list/were not considered for the position because the automated evaluation process failed to capture all of the experience necessary for the position (for example: you filed applications prior to implementation of IVOL for the same position and were found qualified by a promotion panel; but were not found qualified under the automated IVOL process); or

Your application was not filed timely and so was not considered because of problems with the automated submission process - either because of a systems error or because you did not have Internet access to file the application within the timeframes in the vacancy announcement; or

You were not given adequate duty time to complete your SSA-45 and submit it electronically; or

You were given no training on how to utilize the IVOL application process successfully; or

You submitted a paper application (pre-IVOL process) after IVOL was implemented and your application was rejected as improperly filed.