

UDoDWC Proposal on Emergencies and Post-Implementation Bargaining

Section 9901. Exigencies and Post-Implementation Bargaining and Remedies

(a) Emergencies under 5 U.S.C. § 7106(a)(2)(D) include exigencies requiring action reasonably necessary to carry out the Department's national security mission before collective bargaining concerning the action can be completed.

(b) In an exigency described in subsection (a), the Department may take action contrary to the provisions of a collective bargaining agreement to the extent reasonably necessary to carry out the Department's national security mission.

(c) The Department will afford opportunity for collective bargaining concerning an exigency described in subsection (a) when circumstances reasonably allow.

(d) If an exigency under subsection (a) was unforeseen, agreement or impasse resolution resulting from bargaining under subsection (c) will operate prospectively. Otherwise, agreement or impasse resolution may be retroactive if retroactive effect would not unduly disrupt Department operations reasonably necessary to carry out the Department's national security mission.

(e) If an exigency under subsection (a) was unforeseen, any remedy for Department action that was contrary to the provisions of a collective bargaining agreement and not reasonably necessary to carry out the Department's national security mission will operate prospectively. Otherwise, a remedy may be retroactive if retroactive effect would not unduly disrupt Department operations reasonably necessary to carry out the Department's national security mission.