



UNITED STATES OF AMERICA  
**FEDERAL LABOR RELATIONS AUTHORITY**  
**OFFICE OF THE INSPECTOR GENERAL**

WASHINGTON, D.C. 20424-0001

**Date Issued: October 13, 2009**

**SUBJECT: Internal Review of Federal Labor Relations Authority Case Intake and Publication (CIP)**

**METHODOLOGY:**

This Federal Labor Relations Authority Inspector General Internal Review of CIP was conducted in accordance with the Inspector General Reform Act of 2008, the Inspector General Act of 1978, as amended, and in compliance with the Counsel of the Inspector General of Integrity and Efficiency and the Federal Labor Relations Authority Inspector General's updated (2009) related policies.

**BACKGROUND:**

The Case Intake and Publication (CIP) (which was formally called the Case Control Office) is part of the FLRA Authority and has the mission to receive, manage and process cases for the Members of the Authority and has similar mission parallels as a clerk of the court. The CIP is the first FLRA office to receive Authority cases and is the last FLRA office to process and dispose FLRA Authority cases. The Chief, CIP conducts many duties that mirror a legal clerk for the FLRA Authority. The Office of General Counsel and Federal Service Impasse Panel (FSIP) have their own systems for case intake. The 4 major cases that are handled by the CIP include representation, arbitration, negotiability and unfair labor practice charge appeals.

The CIP receives cases (usually delivered by personal DELIVERY or by U.S. mail), reviews the cases received for applicability and time factors, asserts or denies jurisdiction and decides what procedures to use. If issues are controversial or significant or lack precedent, CIP contacts will obtain input from the Members. Cases are assigned on a rotating basis to Members of the Authority to ensure an evenly distributed workload. Once a Member has rendered a decision, the case is returned to the CIP for out processing and filing. The CIP handles publications for all FLRA components.

The CIP is the point of contact with customers, as well as public or private sector walk-ins who wish to review cases. The CIP maintains the requisite information, meets the applicable filing timelines and makes sure the cases are procedurally correct.

## **FACTS:**

The CIP is handled by the Chief CIP Officer and his office contains 5 staff positions. The staff consists of 3 Labor Relations Specialists, 1 Legal Technician and 1 Legal Clerk. One Labor Relations Specialist also currently handles the FLRA Library's duties. All of these employees are experienced and training opportunities to increase their job growth is approved on a regular basis. The Legal Clerk's position of a GS-6 is the lowest paid staff member in the FLRA and the Chief, CIP, with the approval of his Supervisor has requested this GS-6 position qualifies for the GS-7 level.

The FLRA Legal Technician handles publications cases but primarily focuses on handling the Authority webmaster because no one else in the FLRA can do this. Much of her other assigned tasks were not able to be addressed because of her extensive amount of work on the website. Once the website is transferred to the Information Resource Technology Office, this website function will no longer be handled by the CIP.

Once a case is assigned to the FLRA Member's Office and their case writer, the Members Office take complete control of the case. If a case is to be dismissed by a Member's Office, all Members must vote on the dismissal. If the case is dismissed by the CIP before it is assigned to the Member's Office, the Chief, CIP dismisses it.

All of the CIP staff employees handle case processing and one employee, the Legal Technician enters and maintains the cases on the internet. This additional internet requirement has never been provided to any other FLRA employee. When the CIP individual who maintains the internet and performs other duties related to publishing and posting decisions on the internet became sick and was out of the office for over 3 months, the FLRA had to hire contractors to do this job for two months because it did affect the Authority in handling its cases. After 4 months, management approved this individual's request to work from home while she was still recovering. She is currently still doing this from home.

The specific CIP cases handled by the office staff include case exceptions to arbitrations, appeal representation cases, petitions for reviews, complaints on unfair labor practice charge case decisions by FLRA Judges, miscellaneous cases, and foreign service cases. FLRA Federal Impasse Panel cases are rarely handled by CIP. During FY 2009, the amount of cases assigned to the CIP was reduced and was around 30 and all cases were handled properly and on time. The only problem CIP had this year was related to meeting all of its office's production goals. It met about 75% and should have handled all of it.

When cases are filed with the Authority component, the CIP examines the filing for deficiencies and jurisdiction issues such as timelines and the nature of decision. If the filing contains procedural deficiencies, the CIP issues a deficiency order and requires the correction of the deficiency. If the deficiency is not corrected by the filing party, the CIP then issues a show cause order and seeks an explanation for why the case should not be dismissed. If the explanation is not sufficient, the Chief, CIP has the authority to dismiss

the case. The Chief, CIP also has the authority to dismiss cases based on jurisdictional defects. If a response to an initial filing from parties is untimely, the CIP provides a memorandum to the Member's offices and makes them aware of the problem and makes a recommendation on whether to or not consider the untimely response.

When the CIP handles and resolves all issues in a case filed, the Chief CIP assigns the case to an FLRA Member sequentially. This assignment method has been accepted by the Members. Under the current administration, the FLRA Members Office staffs have been increased which was necessary because the handling of these cases takes a lot of time. All three of the Authority's Member Offices act independently but interact properly with the CIP. The Member's screening team contains representatives from each of the Member's offices. These individuals review the case file to determine if the case meets requirements and whether the case can be assigned for a full review. They also make sure that all deficiency and jurisdictional issues were handled properly by the CIP. Once the screening team completes this, the CIP officially assigns the case to a Member's office. This is normally done sequentially.

If the CIP or Member's office staff identifies a procedural problem, a deficiency order is issued that requires the party to correct it. Filings are dismissed only if the party fails to correct the problem in a timely manner and then only after the CIP issues an order to give the party a chance to explain why they did not respond to the deficiency order on time.

The Member office staff who is assigned a case by CIP conducts cite checking and is this is done by case writers. The final responsibility for cite checking is conducted by the CIP to ensure that it is in proper Blue-book form and the case cited stands for the proposition for which it is offered. The Members and their staffs as well as the CIP do not normally contact the case filing parties, however because there were so many old cases from the last administration, the CIP did check on these specific cases with the parties. Calls by telephone are made for post petition conferences. Unless the case is a negotiability case, no direct contact is normally provided by the Authority.

All FLRA Members stated that the CIP does a good job for them. Although during the last administration, cases took longer to handle in CIP, now things have improved and the review is fast and well done. The Members really don't normally interact with CIP. Their Chief Counsels and screening teams work with CIP. Now, with updated staffs, the Authority is exceeding its 60 day target. The only problem the Authority has relating to CIP is the current internet which is being addressed by the Information Resource Technology Director. Hardware has to be purchased to create an electronic system so that case writers could do their work on line.

The Chief of CIP was hired by the FLRA during the previous administration as the Deputy General Counsel. He then worked for the Authority and Office of Solicitor and then was transferred to the CIP 2 years ago. The Chief CIP position grade of GS-15 was diminished by the former administration to a GS-14 which is lower than the type of work being done. This position has not yet been updated by current management. The Chief, CIP currently

supervises 5 CIP employees who function spontaneously and are a tenured staff. Dialogue with the staff is continuous. The Chief, CIP reports to the Chairman's Chief Counsel. The current Chief, CIP sometimes receives critical remarks from his supervisor but mostly receives support for his requests and interactions.

The Chief, CIP reviews all filed cases received by his offices and works collaboratively on most cases. The Chief, CIP performs the first review for sufficiency and then prepares and sends out the acknowledgement notice letter to the filing parties. Then, the file goes to one of his staff for further review on procedural defects and to ensure that the filing meets jurisdictional requirements. All deficiencies identified are reviewed and signed by the Chief CIP. On difficult cases, the CIP Senior Labor Relations Specialist will provide an additional review of the case. Dismissals are usually prepared either by the Chief, CIP or CIP Senior Labor Relations Specialist. In addition, they focus on issuing the decisions on the date they were approved.

The Chief, CIP interacts daily with his employees professionally. The Chief, CIP serves as the point of contact for all Members of the Authority and is responsible for providing procedural reviews, assigning cases to Members (usually on a rotational basis) and administratively closing cases after the Authority renders a decisions. The Chief, CIP has the authority to grant or deny the requests of parties including requests to extend the time or withdraw cases pending before the Authority. The Chief, CIP has the authority and can dismiss cases that are untimely, premature, incorrect or have deficient files. The Chief, CIP may dismiss untimely, incorrect, or administratively deficient files and adopt Administrative Law Judge conclusions related to unfair labor practice charge cases in which exemptions are not filed. The CIP also serves as the FLRA's point of contact for Federal Register Notices. CIP employees who communicate with case filers do not get into any discussion of case material or the status of the case. Their communication relates only to administrative procedures.

The Chief, CIP and his staff review every Authority Members decision before issuance. When there is a need to bring case issues to the Member's staff about an individual decision, the Chief, CIP does so. If the CIP staff finds typo or written mistakes in the Authority Member's decisions, they will correct the mistake and ultimately provide copies of the final decisions to the Members. Currently, the CIP creates 36 copies of each decision. 1 copy is given to each party and the arbitrator if it is an arbitration case. 2 copies are provided to the Office of General Counsel and 1 copy is provided to FSIP (even if not involved in the case) as well as each case writer in the Authority. Copies are also provided to each case writers in the Members' offices and for each of the Members. One copy of each file is maintained by the CIP. No specific distribution list is currently maintained by the CIP. Once a case is closed and the decision is issued, the CIP maintains the case file for two years. After 2 years, they provide the file to the National Records Center where they can be retrieved if necessary.

During FY 2009, through the end of August, the CIP received 198 cases which averaged about 18 cases per month. Representation cases are required to be reviewed within 60

days of being filed and are generally assigned to the Member within 24 hours. Negotiation cases undergo an entire post petition process which includes a post-petition conference, CADRO related activities, and several filing opportunities by the parties. The CIP focuses on setting up the post petition conference within 2 days of receiving the petition. After the negotiability process is completed by CIP, the case is assigned to the Member's staff for a decision. It is normal for these cases to take 100 days to be completed and issued. For arbitration and unfair labor practice charge cases, the CIP is required to wait up to 40 days from the filing date to receive an opposition before handling the case. This is because once the arbitration case is filed by a party, the other party has the right to file a response to the FLRA within 30 days. Generally, the arbitration cases are reviewed when they have been in CIP for over 45 days.

The CIP does not have any procedures for establishing pre-filing conferences although they do respond to procedural questions asked by parties who want to file cases. The Federal Register function that used to be handled by the CIP is now handled by the Office of the Solicitor. Currently, all cases are processed in a proper and orderly manner. If there are an extensive amount of cases that need to be handled at the end of the month, the CIP staffers will spend additional work time (they do receive proper comp time for doing so) to process the cases on time.

Currently, the amount and experience of the CIP staff is sufficient to handle the CIP workload. However 3 of the 4 staff members are eligible to retire and no succession planning has been created to help with future retirements. The Chief and CIP staff always respond to extensive procedural questions from the Authority staff and occasionally receive questions from the Authority Chief Counsels. Questions directly from the Members are rarely provided to the CIP.

All official case files are provided by written orders. Sometimes, the CIP is asked questions orally from a party to which they respond orally but this information is created by a memo and added to the file. Substantive issues regarding the case are never discussed by the CIP with a party.

CIP also has the job of preparing the table of authorities for filings made by the Office of Solicitor before Federal Courts and Administrative Agencies like the Equal Employment Opportunity Commission. For representation and unfair labor practice charges, the CIP receives the Regional Directors decisions and orders immediately and case files are normally received within 3-4 days from a CIP request. All Administrative Judge decision documents are scanned and maintained in an electronic file and are accessible immediately. The Chief, CIP does not handle Freedom of Information Act (FOIA requests) for the Authority's Members and rarely receives FOIA requests that pertain to CIP documents.

The CIP utilizes the FLRA's case tracking system on a daily basis. The technology is very old and the reports that are available from case tracking are not always reliable. The CIP has found that numbers can change from day to day when parameters are entered or when

old cases are resolved and closed in the system. The only problem issue CIP has with handling the software is related to the use of web related work and decision publication because the website is very old. Currently, the Chief, CIP is working with the FLRA Chief Information Officer and has taken over the website function. The CIP places decisions on the website directly without input or help from the CIO.

All FLRA Members and their staff can access the same system as the CIP and enter data that is appropriate and related to their Member Office case. Member's Offices can enter data regarding cases assigned to their office which the CIP and other Members can not. Currently, the CIP decision publication functions handled by one employee who has been sick and out from work since May, 2009. In June, 2009, the Chairman, FLRA hired two contractors to prepare decisions for publication and enter cases on the website when the employee got sick because no one else in the FLRA knew how (or was ever trained) to do this same work.

The CIP maintains the Authority Member's Office files in a file room which is locked if no one is in the CIP office. No access can be made to these files without a CIP employee present even though these files are not secure files. The only secure files maintained in the CIP office are employees personnel- related files such as evaluations, performance plans, leave slips and other personally related files. These files are maintained in a locked drawer in the Chief, CIP's office which is locked when he is not present.

The CIP does not have current instructions for handling filed cases although it does have a number of written internal policies and procedures that are published in a notebook entitled "CCO Standard Operating Policies and Procedures." Pen and ink changes have been made but the last time a major review was done on these policies was in November 2001. Previous guidance, which was a manual created by the Case Processing Office, dated back to approximately 1989 has not been updated. Current employees still refer to this manual which contains detailed policy if they need information. The Delegation of Authority Plan was created in 2000 under the last administration. The current Chairman and new Members need to review and update this plan. Also the CIP Directory can not be searched for information by entering the requested information. If a CIP employee needs to look for something in the Directory, they have to scroll it to find the information.

The Labor Relations Specialist, who focuses on handling initial case documents, hopes to set it up and process the case within 24 hours. Representation appeal cases received are handled immediately because they have to be issued within 60 days. All CIP case handlers handle the case as quickly as possible. They immediately notify the Chief, CIP who then notifies the Member's Chief Counsel who will receive the case. The Labor Relations Specialist who focuses on handling decisions tries to get them the same day they are received from the Member handling it. The most time allowed for issuing decisions is 48 hours (not by law). Reviewing a 10-15 page decision normally takes one day but the time element really pertains to the amount of pages of the decision.

If a case filed with CIP is deficient, the Labor Relations Specialist will not issue it to the Member and will create an order addressing the deficiency and send it to the parties as well as the contacted Member's Chief Counsel's CIP. Case processing has improved time wise with the rational handling of the cases by the three current Presidentially appointed Authority Members and the issuance of the cases by CIP normally no longer focuses on the last few days of the month like it used to be handled 10 years ago prior to the last administration (when cases were diminished.) Overtime work is now minimal for the CIP staff. One Labor Relations Specialist generally handles the final cases released by the Authority Members but can get help from the other 2 Labor Relations Specialists if necessary.

CIP is very customer conscious but, as previously stated, they do not contact the parties who file cases other than acknowledging the receipt of the case or stating that the submission requires additional documentation. The acknowledgement letter sent by the Chief, CIP does not include the amount of time for case processing. Customer understanding of case timelines would improve their expectations and eliminate a lot of additional contacts. Inquires about the status of the case are normally referred to the CIP Labor Relations Specialists or Legal Clerk to research, handle and call the customers. Generally, negotiability cases take the longest amount of time to handle because there is more procedural complexity in reviewing and handling these types of cases. Representation cases have to be handled within 60 days. Arbitration and unfair labor practice appealed cases are also mostly handled within 60 days.

The CIP receives the cases, verifies the receipt to the submitter and checks them for propriety before they are transferred to the Members Offices or dismissed because they are not appropriate. The Members Offices review and issue a decision for the filed case. The assigned Member makes the final decision and forwards the case back to CIP and the Labor Relations Specialist performs a post decision citation and references quality check on the Member's final decision prior to issuing the decision via a Memorandum by the Chief CIP to the parties and then closes the case.

In FY 2009 from October to August 31, 2009, 144 Arbitration Cases, 37 Negotiation Cases, 16 Representation Cases, and 1 Unfair Labor Practice Charge (ULP) were filed with the FLRA CIP for handling and were opened. 155 Arbitration Cases, 13 Negotiation Cases, 14 Representation cases, 13 ULPs were closed (some carry overs from the previous year).

As of August 31, 2009, all Representation cases filed with the FLRA were assigned by CIP to an Authority Member staff within 2 days or were otherwise disposed. CIP met its target of 100%. Upon the completion of filing requirements, 69% (75% target) Arbitration cases were assigned to the Authority Member's staff within 5 days or otherwise disposed. 50% (75% target) of CIP Negotiability cases received were also assigned to the Authority Member staff within 5 working days or otherwise disposed. All ULP cases filed with CIP were assigned to the Authority Member staff within 5 working days or otherwise disposed. 100% of these cases were issued to the Authority on time by CIP.

The total allocation for the 2009 CIP budget was \$593. 60. As of September 19, 2009, no CIP 2010 budget had not yet been approved by FLRA management. The majority of these funds were spent in FY 2009.

## **CONCLUSION:**

The Chief, CIP and his entire staff interacted with the FLRA Inspector General extraordinarily well and provided the Inspector General extensive information regarding the CIP and its interaction with the Authority and additional components to handle cases filed with the Authority.

The functions conducted by CIP in support of the Authority and FLRA mission are done properly. The Chief of CIP has established a trustful and respectful relationship with his staff and interacts with the CIP employees on a daily basis. All members of the CIP staff are very experienced, knowledgeable and motivated to do an excellent job. The current staffing of CIP appears sufficient to support the Authority. The fact that one of the Legal Clerks was sick and home during this review did affect the CIP because the individual was the only FLRA employee who entered the Authority cases on the internet. The FLRA did hire contractors to do this CIP telework job for 2 months.

The Chief, CIP and his staff are conducting their jobs properly and on time. The CIP staff is sufficient and experienced to conduct the job. The only problems relate to old policies and procedures which need to be updated, the need for succession planning for 3 CIP employees who are eligible to retire and the fact that the letters to the parties who file cases do not contain an estimate of the time required to handle the case. Otherwise, this internal review did not find any other problems. The CIP is doing an excellent job for the FLRA.

## **FINDING 1:**

CIP policy and procedures need to be updated and a current instruction/manual should be created.

## **RECOMMENDATION 1:**

Chief, CIP should review and update CIP administrative policy and internal procedures to reflect current processes. The 2000 Delegation of Authority Plan and initial manual for handling cases should be reviewed and updated by the FLRA Members. An instruction regarding handling of CIP cases should be created by the Chief, CIP and should incorporate security measures as well as guidance on communication with parties filing cases with the CIP for the Authority to handle. If case decisions cannot be made within the stated timeline, an interim letter stating the anticipated increase of time should show that the FLRA is sensitive to the customer's need of information on the status of their case.

**FINDING 2:**

The current Chief CIP position was diminished from a GS-15 to a GS-14 by the former administration's Chairman, FLRA even though the extent of work increased (library, publications and website responsibilities.)

**RECOMMENDATION 2:**

The Chief, CIP position should be reinstated to a GS-15 position by management since the Chief, CIP is conducting work requirements that meet the GS-15 level.

**FINDING 3:**

Three of the five CIP experienced staff members are eligible to retire and no succession planning has yet been created to help with future retirements.

**RECOMMENDATION 3:**

The FLRA Human Resource Division should prepare succession planning for the 3 experienced CIP staff members who are eligible for retirement so that their positions can be filled immediately when they retire.

**FINDING 4:**

When CIP employees access the CIP Directory, because it is old, the employees must scan it to get specific information.

**RECOMMENDATION 4:**

The CIP Directory should be updated so that specific information can be required without having to scan the entire Directory.