



Member Update

Update on Convention Amendment A25-45: Seniority for BUEs on an Age 56 Waiver

Earlier this month, delegates from NATCA's locals met in San Francisco for NATCA's 20th Biennial Convention. At the beginning of the Convention, NATCA President Nick Daniels, in his role as Convention Chair, advised the delegates that NATCA's legal counsel had determined that several of the proposed amendments and resolutions would violate applicable federal labor and employment laws and would likely be unenforceable if adopted. The Convention Chair informed the delegates that none of the proposed amendments and resolutions would be ruled out of order on this basis, however, and that debate and consideration would occur on any of the proposals the delegates wanted to address.

On the second day of Convention, Amendment A25-45 came to the floor. This was one of several amendments proposing a change to Article XV of the National Constitution, NATCA's national seniority policy. At the outset of debate on this particular proposed change to the seniority policy, the Convention Chair again advised the delegates that NATCA's legal counsel had determined that enactment of this amendment raised significant legal issues with regard to NATCA's obligation to refrain from violating the Age Discrimination in Employment Act (ADEA). The ADEA is a federal law that expressly prohibits employers and labor unions from taking employment actions or adopting employment policies that either intentionally or by effect discriminate against workers age 40 and older because of their age.

After the floor debate was concluded, the final version of A25-45 proposed adding a new section to NATCA's national seniority policy to provide that any bargaining unit employee working on an Age 56 waiver, which becomes effective on or after October 1, 2025, would have their seniority set to the day that waiver becomes effective.

When the question on adoption of A25-45 was called, the Convention Chair determined that neither a voice vote nor a subsequent standing vote yielded the necessary two-thirds of affirmative votes for passage. A successful request from a delegate for a roll call vote, however, resulted in a tally reflecting that more than two-thirds of the votes cast by the delegates were in favor of

adoption of A25-45.

On May 20, barely one week after the conclusion of Convention and before NATCA had formally or even informally notified the FAA of a change to the seniority policy, NATCA received a letter from the FAA. This letter informed NATCA that the FAA was already aware of the seniority change contained in A25-45. In its May 20 letter, the FAA stated that “[i]f implemented, the amendment will result in unlawful age discrimination” and, consequently, “the FAA will not rely on or implement the May 2025 NATCA Seniority Policy Amendment.”

On May 21, NATCA filed a national grievance with the FAA. The grievance alleged, among other things, that the FAA’s refusal to implement the seniority policy change in A25-45 violated Article 83 of the parties’ collective bargaining agreement (CBA), which states that “[s]eniority will be determined by the Union.”

On May 23, the FAA sent NATCA a grievance response affirming its earlier conclusion. The FAA acknowledged NATCA’s right to define seniority as established in Article 83, but the FAA noted that “[i]f the Agency were to implement the May 2025 NATCA Seniority Policy Amendment, the Agency would be complicit in discriminating against employees based on their age. . . [because] only individuals who have reached the age of 56 are even eligible to apply for a waiver.”

NATCA’s attorneys have undertaken an extensive and comprehensive analysis of the ADEA and other relevant labor and employment laws, their implementing regulations, and federal court decisions as they apply to A25-45. In a recent briefing with the NATCA National Executive Board, legal counsel provided their conclusions with regard to the likelihood of a successful legal challenge of the FAA’s refusal to implement the seniority policy change as well as their professional assessment of the potential legal liability for NATCA triggered by an implementation of the seniority change.

After a careful and thorough consideration of all the information presented to it, the NEB unanimously determined that it does not have grounds for a successful legal defense of A25-45 and that its enactment would potentially subject NATCA to liability for discrimination; therefore, it is unenforceable.

In the aftermath of this determination, NATCA’s national seniority policy will remain unchanged and in effect as it was at the start of the 20th Biennial Convention. Consequently, delegates to the 21st Biennial Convention in April 2027 will have the opportunity to consider and adopt other seniority policy changes, as NATCA still retains its right under Article 83 of the Slate Book CBA to change seniority one time during the life of the agreement.

In Solidarity,

NATCA National Executive Board

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