



# BULLETIN

FEDERAL MEDIATION AND CONCILIATION SERVICE

**SUBJECT:**

Use of Recording Devices or Court Reporters  
in Negotiation Sessions

No. : 78-BUL-172

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To: FMCS Professional Staff

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The National Labor Relations Board recently reversed a number of its prior decisions and held that it is an unfair labor practice for one party to insist to impasse on the use of recording devices or a court reporter in negotiation sessions.

The Board formerly had ruled that a party could insist on recording negotiation sessions as long as it was not done in bad faith to avoid the bargaining obligation. In the Bartlett - Collins Co. case (237 NLRB No. 102 (1978)), the Board reexamined the issue and decided that the use of a court reporter or a recording device is not a mandatory subject of bargaining. Rather, it is a permissive subject of bargaining. Therefore, although the parties are free to agree that their negotiation sessions shall be recorded, neither party may lawfully insist to impasse on it.

