

PART 901—GENERAL

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AUTHORITY: Secs. 610, 1101, 1102, 1105, and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4131, 4132, 4135, and 4136), as amended.

SOURCE: 50 FR 31353, Aug. 2, 1985, unless otherwise noted.

Subpart A—Purpose and Scope

§ 901.1 Purpose and scope.

The regulations contained in this chapter establish the internal organization of the Foreign Service Grievance Board and prescribe its procedures in:

- (a) Determining its jurisdiction in cases involving grievances and separation for cause proceedings;
- (b) Compiling a record in such cases;
- (c) Conducting hearings in such cases, when required or deemed necessary; and
- (d) Deciding such cases, or otherwise disposing of them, so as to ensure the fullest measure of due process for the members of the Foreign Service.

Subpart B—Meanings of Terms As Used in This Chapter

§ 901.10 Act.

Act means the Foreign Service Act of 1980 (Pub. L. 96-465, October 17, 1980), as amended.

[56 FR 55453, Oct. 28, 1991]

§ 901.11 Agency.

Agency means the Department of State, the Agency for International Development, the U.S. Information Agency, the Department of Agriculture, or the Department of Commerce, if the Agency employs the individual appearing in a case before the Board and/or has control over the act, omission, or condition forming the subject matter of such case.

§ 901.12 Board.

Board means the Foreign Service Grievance Board, including any designated panel or member thereof.

§ 901.13 Executive secretary.

Executive secretary means the executive secretary of the Board or his or her designee.

§ 901.14 Service.

Service means the Foreign Service of the United States.

§ 901.15 Exclusive representative.

Exclusive representative means any labor organization which is certified as the exclusive representative of the bargaining unit of which the grievant or charged employee is a member.

§ 901.16 Grievant.

Grievant means anyone who has filed a grievance and who is a member of the Service and is a citizen of the United States, or for the purposes of § 901.18(a)(7) a former member of the Service, or in the case of death of the member, the surviving spouse or, if none, another member of the family.

§ 901.17 Charged employee.

Charged employee means a member of the Senior Foreign Service or a member of the Service assigned to a salary class who has been proposed for separation for cause under section 610(a)(2) of the Act.

§ 901.18 Grievance.

(a) *Grievance* means any act, omission, or condition subject to the control of an Agency which is alleged to deprive a member of the Service who is a citizen of the United States of a right

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or benefit authorized by law or regulation or is otherwise a source of concern or dissatisfaction to the member, including but not limited to:

(1) Complaints against separation of a member allegedly contrary to law or regulation or predicated upon alleged inaccuracy, omission, error or falsely prejudicial character of information in any part of the official personnel record of the member;

(2) Other alleged violation, misinterpretation or misapplication of applicable law, regulation, collective bargaining agreement or published post or agency policy affecting the terms and conditions of the employment or career status of the member;

(3) Allegedly wrongful disciplinary action against the member;

(4) Dissatisfaction with respect to the working environment of the member;

(5) Alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(6) Action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by a member in a grievance; and

(7) Alleged denial of an allowance, premium pay or other financial benefit to which the member claims entitlement under applicable laws or regulations.

(b) The scope of grievances described above may be modified by written agreement between an Agency and its exclusive representative.

(c) The term *grievance* does not include:

(1) Complaints against an individual assignment of a member under chapter 5 of the Act, other than an assignment which is alleged to be contrary to law or regulation;

(2) The judgment of a selection board (established under section 602 of the Act) or a tenure board (established under section 306(b) of the Act) or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis, including a merit promotion selecting official, except that alleged procedural violations of law, regulation or collec-

tive bargaining agreement or prohibited personnel practice(s) arising under these procedures are grievable;

(3) The expiration of a limited appointment, termination of a limited appointment under section 611 of the Act, or the denial of a limited career extension or denial of a renewal of a limited career extension under section 607(b) of the Act; or

(4) Pursuant to section 1109 of the Act, any complaint or appeal where a specific statutory hearing procedure exists other than procedures for considering prohibited personnel practice charges before the Merit Systems Protection Board or Special Counsel (5 U.S.C. 1206).

(5) Non-adoption of a member suggestion or disapproval of a quality salary increase, performance award, or any other kind of honorary discretionary award, except where such action is alleged to be contrary to law, regulation or collective bargaining agreement; and

(6) The content of published agency policy which is not contrary to law, regulation or collective bargaining agreement.

(d) For the purposes of these regulations, the written complaint concerning any act, omission, or condition specified above may be referred to as the "grievance".

[50 FR 31353, Aug. 2, 1985, as amended at 56 FR 55458, Oct. 28, 1991]

§901.19 Labor organization.

Labor organization means any employee organization accorded recognition as the exclusive employee representative under section 1002(11) of the Act. For the Department of State and the Agency for International Development (AID), the exclusive employee representative is the American Foreign Service Association; for the U.S. Information Agency (USIA), the exclusive employee representative is the American Federation of Government Employees, Local 1812 (AFL-CIO).

§901.20 Party.

Party means—

(a) The grievant/charged employee;

(b) The Agency or Agencies employing the grievant/charged employee and/

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or having control over the act, omission, or condition leading to appearance before the Board; or

(c) The exclusive representative if it has achieved party status under § 903.4.

A Party may act through its duly designated representative.

[50 FR 31353, Aug. 2, 1985, as amended at 56 FR 55458, Oct. 28, 1991]

§ 901.21 Record of proceedings.

Record of proceedings means the case file maintained by the Board on each grievance case, or separation for cause proceeding.

§ 901.22 Representative.

Representative means the person(s) identified in writing to the Board as assisting the party or parties in the presentation of the case.

PART 902—ORGANIZATION

Sec.

902.1 Chairperson and deputy chairperson.

902.2 Board operations.

902.3 Board staff.

AUTHORITY: Secs. 1105 and 1106 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4135 and 4136), as amended.

§ 902.1 Chairperson and deputy chairperson.

The chairperson presides over meetings of the Board. The chairperson shall select one of the Board members as deputy. In the absence of the chairperson, the deputy chairperson, or in his or her absence, another member designated by the chairperson, may act for him or her.

[50 FR 31354, Aug. 2, 1985]

§ 902.2 Board operations.

(a) The Board may operate either as a whole, or through panels or individual members designated by the chairperson.

(b) When operating as a whole, the Board may not act in the absence of a quorum. A majority of the members shall constitute a quorum. The Board will act by a majority vote of those present. Amendments to these regulations and Board policies adopted pursuant to § 910.3 shall be adopted by the Board operating as a whole.

(c) Board panels and presiding members of panels shall be designated by the chairperson subject only to the provisions of § 906.4.

[50 FR 31354, Aug. 2, 1985, as amended at 56 FR 55459, Oct. 28, 1991]

§ 902.3 Board staff.

The chairperson shall select the Board's executive secretary and other staff provided for in the Act. The executive secretary and staff shall be responsible only to the Board through the chairperson.

[50 FR 31354, Aug. 2, 1985]

PART 903—INITIATION AND DOCUMENTATION OF CASES

Sec.

903.1 Initiation of cases.

903.2 Record of proceedings.

903.3 Rulings on materials.

903.4 Participation of exclusive representative.

903.5 Service of documents.

903.6 Interrogatories.

903.7 Acknowledgment.

903.8 Withdrawal.

903.9 Access to records.

903.10 Access to witnesses.

AUTHORITY: Secs. 610, 1104, and 1106-1109 of the Foreign Service Act of 1980, Pub. L. 96-465 (22 U.S.C. 4010, 4134, and 4136-4139), as amended.

SOURCE: 50 FR 31354, Aug. 2, 1985, unless otherwise noted.

§ 903.1 Initiation of cases.

(a) Grievances submitted to the Board shall be in writing, and shall explain the nature of the grievance, and the remedy sought; shall contain all the documentation furnished to the Agency and the Agency's final review; and shall be timely filed in accordance with applicable regulations.

(b) A member whose grievance is not resolved satisfactorily under Agency procedures, the representative of the grievant, or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit), shall be entitled to file a grievance with the Board no later than 60 days after receiving the Agency decision. In the event that an Agency has not provided its decision within 90 days of filing