

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this subchapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

(Pub. L. 96-465, title I, §1001, Oct. 17, 1980, 94 Stat. 2128.)

§ 4102. Definitions

As used in this subchapter, the term—

(1) “Authority” means the Federal Labor Relations Authority, described in section 7104(a) of title 5;

(2) “Board” means the Foreign Service Labor Relations Board, established by section 4106(a) of this title;

(3) “collective bargaining” means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) “collective bargaining agreement” means an agreement entered into as a result of collective bargaining under the provisions of this subchapter;

(5) “conditions of employment” means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5;

(B) relating to the designation or classification of any position under section 3981 of this title;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multi-agency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) “confidential employee” means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(7) “dues” means dues, fees, and assessments;

(8) “employee” means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, a member of the Service who is a United States citizen (other than a family member) employed under section 3951 of this title, or any individual who participates in a strike in violation of section 7311 of title 5; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 4115 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) “exclusive representative” means any labor organization which is certified as the exclusive representative of employees under section 4111 of this title;

(10) “General Counsel” means the General Counsel of the Authority;

(11) “labor organization” means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 4131 of this title) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) “management official” means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 3929 of this title; or

(F) is engaged in the administration of this subchapter or in the formulation of the personnel policies and programs of the Department;

(13) “Panel” means the Foreign Service Impasse Disputes Panel, established by section 4110(a) of this title; and

(14) “person” means an individual, a labor organization, or an agency to which this subchapter applies.

(Pub. L. 96-465, title I, §1002, Oct. 17, 1980, 94 Stat. 2129; Pub. L. 103-236, title I, §180(a)(9), Apr. 30, 1994, 108 Stat. 416.)

Editorial Notes

AMENDMENTS

1994—Par. (8)(A). Pub. L. 103-236 inserted “a member of the Service who is a United States citizen (other than a family member) employed under section 3951 of this title.”.

§ 4103. Application

(a) Departments and agencies affected

This subchapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development, the Department of Agriculture, and the Department of Commerce.

(b) Exclusion of subdivisions

The President may by Executive order exclude any subdivision of the Department from coverage under this subchapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this subchapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) Suspension of provisions

The President may by Executive order suspend any provision of this subchapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

(Pub. L. 96-465, title I, §1003, Oct. 17, 1980, 94 Stat. 2130; Pub. L. 97-241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 105-277, div. G, subdiv. A, title XIII, §1335(k)(3), title XIV, §1422(b)(4)(C), Oct. 21, 1998, 112 Stat. 2681-789, 2681-793.)

Editorial Notes

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277, §1422(b)(4)(C), substituted “Agency for International Development” for “United States International Development Cooperation Agency”.

Pub. L. 105-277, §1335(k)(3), substituted “Broadcasting Board of Governors” for “United States Information Agency”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Broadcasting Board of Governors renamed United States Agency for Global Media pursuant to section 6204(a)(22) of this title. The renaming was effectuated by notice to congressional appropriations committees dated May 24, 2018, and became effective Aug. 22, 2018.

“United States Information Agency” substituted for “International Communication Agency” in subsec. (a), pursuant to section 303(b) of Pub. L. 97-241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(3) of Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4)(C) of Pub. L. 105-277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105-277, set out as an Effective Date note under section 6561 of this title.

§ 4104. Employee rights

(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this subchapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this subchapter.

(Pub. L. 96-465, title I, §1004, Oct. 17, 1980, 94 Stat. 2130.)

§ 4105. Management rights

(a) Subject to subsection (b), nothing in this subchapter shall affect the authority of any management official of the Department, in accordance with applicable law—

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any member in accordance with regulations prescribed under section 4005(b) of this title;

(3) to conduct reductions in force, and to prescribe regulations for the separation of employees pursuant to such reductions in force conducted under section 4010a of this title;

(4) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(5) to fill positions from any appropriate source;

(6) to determine the need for uniform personnel policies and procedures between or among the agencies to which this subchapter applies; and

(7) to take whatever actions may be necessary to carry out the mission of the Department during emergencies.