

Department of State

§ 16.10

if the grievance (i) is not within the jurisdiction of a post or bureau, or (ii) the grievance has been considered but not resolved to the grievant's satisfaction within the post or bureau as provided in §16.7(c) within 10 days after receipt of the post's or bureau's decision (or, if no response is received, within 25 days after presenting it to the senior official or the designee). The grievant shall submit it in writing to the responsible official of the agency which has control of the act or condition which is the subject of the grievance.

(2) *Responsible officials.* The responsible officials of the agencies are the Deputy Assistant Secretary for Personnel (State), the Director of Personnel and Manpower (AID), and the Chief, Employee-Management Relations Division (USIA).

(3) *Contents.* (i) A request for agency review shall include a description of the act or condition which is the subject of the grievance; its effect on the grievant; any provision of law, regulation or agency policy which the grievant may believe was violated or misapplied; copies of any correspondence under §16.7(a), any documentary evidence readily available to the grievant on which the grievance rests; the identity of individuals having knowledge of relevant facts; and a statement of the remedial action requested.

(ii) The responsible official shall review the grievance on the basis of available documentary evidence, and, in that official's discretion, interview persons having knowledge of the facts. The agency review shall be completed and its decision dispatched within 90 days from the date of the initial written presentation of the grievance. The grievant shall be informed in writing of the findings of the responsible official and any proposed resolution of the grievance. The communication shall also include the time within which the grievant may file a grievance with the Grievance Board and the appropriate procedure to be followed in this respect.

§ 16.9 Records.

All official records concerning agency consideration of grievances, except those appropriate to implementation of decisions favorable to grievants, shall

be kept separate from the official personnel record of the grievant and any other individuals connected with the grievance, and shall not be accessible to agency personnel other than the grievant, the grievant's representative, and those responsible for consideration of grievances.

§ 16.10 Foreign Service Grievance Board.

(a) *Establishment and composition.* There is hereby established a Foreign Service Grievance Board for the Department of State, the Agency for International Development and the U.S. Information Agency to consider and resolve grievances under these procedures.

(b) The Grievance Board shall consist of not less than 5 members nor more than 15 members (including a chairperson) who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not active officers, employees, or consultants of the Foreign Affairs agencies (except consultants who served as public members of the Interim Grievance Board previously established under section 660, Volume 3, Foreign Affairs Manual) but may be retired officers or employees. On its initial establishment, the Board shall consist of 15 members including chairperson.

(c) The Board may act by or through panels or individual members designated by the chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. Reference in these regulations to the Grievance Board shall be considered to be reference to a panel or member of the Grievance Board where appropriate. All members of the Grievance Board shall act as impartial individuals in considering grievances.

(d) The members of the Grievance Board, including the chairperson, shall be appointed by the Secretary of State after being designated by the written agreement of the Foreign Affairs agencies and the employee organization.

(e) The Board chairperson and other members shall be appointed for terms of 2 years, subject to renewal upon the

§ 16.11

22 CFR Ch. I (4–1–01 Edition)

agreement of the Foreign Affairs agencies and the employee organization; except that the terms of 7 of the initially appointed members shall expire at the end of one year.

(f) Any vacancies shall be filled by the Secretary of State upon the nomination by the Board following the agreement of the agencies and the employee organization.

(g) *Compensation.* Members, including the chairperson, who are not employees of the Federal Government shall receive compensation for each day they are performing their duties as members of the Grievance Board (including travel time) at the daily rate paid an individual at GS-18 level of the General Schedule under section 5332 of title 5 of the United States Code.

(h) *Removal.* Grievance Board members shall be subject to removal by the Secretary of State for corruption, other malfeasance, or the demonstrated incapacity to perform their functions. No member shall be removed from office until after the Board of the Foreign Service has conducted a hearing and made its recommendations in writing to the Secretary of State, except where the right to a hearing is waived in writing. The Board of the Foreign Service shall provide a member with full notice of the charges against that member, and afford a member the right to counsel, to examine and cross-examine witnesses, and to present documentary evidence.

(i) *Grievance Board procedures.* In accordance with part J, title VI of the Act, the Board may adopt regulations concerning the organization of the Board and such other regulations as may be necessary to govern its proceedings.

(j) *Board facilities and staff support.* The Grievance Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the grievant's travel and travel-related expenses, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, officers and employees on the rolls of the Foreign Affairs agencies may be assigned as staff employees to the Grievance

Board. Within the limit of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The officers and employees so appointed or assigned shall be responsible solely to the Grievance Board and the Board shall prepare the performance evaluation reports for such officers and employees. The records of the Grievance Board shall be maintained by the Board and shall be separate from all other records of the Foreign Affairs agencies.

§ 16.11 Grievance Board consideration of grievances.

(a) *Filing of grievance.* A grievant whose grievance is not resolved satisfactorily under agency procedures (§16.7) shall be entitled to file a grievance with the Grievance 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 presentation, the grievant shall be entitled to file a grievance with the Grievance Board no later than 150 days after the date of presentation to the agency. The Board may extend or waive, for good cause, the time limits stated in this section.

(b) *Exhaustion of agency procedures.* In the event that the Grievance Board finds that a grievance has not been presented for agency consideration or that a grievance has been expanded or modified to include materially different elements, the Board shall return the grievance to the official responsible for final agency review unless the agency waives any objection to Board consideration of the grievance without such review.

(c) *Prescription of interim relief.* If the Grievance Board determines that the agency is considering any action of the character of separation or termination of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board, and that such action should be suspended, the agency shall suspend such action until the Board has ruled upon the grievance. *Notwithstanding* such suspension of action, the head of