

(3) Nothing in this section will limit the right of an individual who has previously served as a limited non-career senior appointee from subsequently applying for consideration as a new applicant and being appointed as a Senior Career Candidate after a limited non-career appointment has expired.

(d) *Reporting requirement.* The Director of Personnel of each foreign affairs agency shall report annually to the Director General of the Foreign Service, Department of State, the number and nature of the limited Senior Foreign Service appointments (non-career and career candidates) made by that agency under these regulations.

(Secs. 206(a) and 301(b), Foreign Service Act of 1980 (secs. 206(a) and 301(b), Pub. L. 96-465, 94 Stat. 2079 and 2083 (22 U.S.C. 3926 and 3941)))

[48 FR 38607, Aug. 25, 1983]

## PART 12—COMPLAINTS AGAINST EMPLOYEES BY ALLEGED CREDITORS

Sec.

12.1 No cognizance taken of complaint.

12.2 Claimants denied access to employees.

### § 12.1 No cognizance taken of complaint.

The Department of State will take no cognizance of a complaint against an employee by an alleged creditor, so far as the complainant is concerned, beyond acknowledging receipt of his communication.

(Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658)

[22 FR 10789, Dec. 27, 1957]

### § 12.2 Claimants denied access to employees.

Persons claiming to be creditors or collectors of debts or claims will be denied access to employees for the purpose of presenting or collecting claims during the hours set apart for the transaction of public business or while the employees concerned are on duty.

(Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658)

[22 FR 10789, Dec. 27, 1957]

## PART 13—PERSONNEL

Sec.

13.1 Improper exaction of fees.

13.2 Embezzlement.

13.3 Liability for neglect of duty or for malfeasance generally; action on bond; penalty.

13.4 False certificate as to ownership of property.

AUTHORITY: Sec. 302, 60 Stat. 1001; 22 U.S.C. 842.

SOURCE: 22 FR 10789, Dec. 27, 1957, unless otherwise noted.

### § 13.1 Improper exaction of fees.

Any consular officer who collects, or knowingly allows to be collected, for any services any other or greater fees than are allowed by law for such services, shall, besides his or her liability to refund the same, be liable to pay to the person by whom or in whose behalf the same are paid, treble the amount of the unlawful charge so collected, as a penalty. The refund and penalty may be recovered with costs, in any proper form of action, by such person for his or her own use. The amount of such overcharge and penalty may at the discretion of the Secretary of the Treasury be ordered withheld from the compensation of such officer for payment to the person entitled to the same (22 U.S.C. 1189).

NOTE: The foregoing relates to improper collection and personal withholding of funds by consular officers. For procedure where a collection, having been erroneously made, has been returned by the officer to the Treasury in good faith, making a subsequent accounting adjustment necessary, see § 22.4, *Refund of fees* of this chapter.

(22 U.S.C. 2658 and 3926)

[22 FR 10789, Dec. 27, 1957, as amended at 49 FR 16989, Apr. 23, 1984]

### § 13.2 Embezzlement.

Every consular officer who shall receive money, property, or effects belonging to a citizen of the United States and shall not within a reasonable time after demand made upon him or her by the Secretary of State or by such citizen, his or her executor, administrator, or legal representative, account for and pay over all moneys, property, and effects, less his or her lawful fees, due to such citizen, shall be

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deemed guilty of embezzlement, and shall be punishable by imprisonment for not more than five years, and by a fine of not more than \$2,000 (22 U.S.C. 1198). Penalties of imprisonment and fine are also prescribed for embezzlement in connection with the acceptance, without execution of a prescribed form of bond, of appointment from any foreign state as administrator, guardian, or to any other office of trust for the settlement or conservation of estates of deceased persons or of their heirs or of persons under legal disabilities (22 U.S.C. 1178 and 1179). Acceptance of such appointments is not ordinarily permitted under existing regulations. See §92.81 of this chapter.

(22 U.S.C. 2658 and 3926)

[22 FR 10789, Dec. 27, 1957, as amended at 49 FR 16989, Apr. 23, 1984]

### § 13.3 Liability for neglect of duty or for malfeasance generally; action on bond; penalty.

Whenever any consular officer willfully neglects or omits to perform seasonably any duty imposed upon him or her by law, or by any order or instruction made or given in pursuance of law, or is guilty of any willful malfeasance or abuse of power, or of any corrupt conduct in his or her office, he or she shall be liable to all persons injured by any such neglect, or omission, malfeasance, abuse, or corrupt conduct, for all damages, occasioned thereby; and for all such damages, he or she and his or her sureties upon his or her official bond shall be responsible thereon to the full amount of the penalty thereof to be sued in the name of the United States for the use of the person injured. Such suit, however, shall in no case prejudice, but shall be held in entire subordination to the interests, claims, and demands of the United States, as against any officer, under such bond, for every willful act of malfeasance or corrupt conduct in his or her office. If any consul neglects or omits to perform seasonably the duties imposed upon him or her by the laws regulating the shipment and discharge of seamen, or is guilty of any malversation or abuse of power, he or she shall be liable to any injured person for all damage occasioned thereby; and for all malversation and corrupt

conduct in office, he or she shall be punishable by imprisonment for not more than five years and not less than one, and by a fine of not more than \$10,000 and not less than \$1,000 (22 U.S.C. 1199).

(22 U.S.C. 2658 and 3926)

[22 FR 10789, Dec. 27, 1957, as amended at 49 FR 16989, Apr. 23, 1984]

### § 13.4 False certificate as to ownership of property.

If any consul or vice consul falsely and knowingly certifies that property belonging to foreigners is property belonging to citizens of the United States, he or she shall be punishable by imprisonment for not more than three years, and by a fine of not more than \$10,000 (22 U.S.C. 1200).

(22 U.S.C. 2658 and 3926)

[22 FR 10789, Dec. 27, 1957, as amended by Dept. Reg. 108.838, 49 FR 16989, Apr. 23, 1984]

## PART 16—FOREIGN SERVICE GRIEVANCE SYSTEM

Sec.

- 16.1 Definitions.
- 16.2 General provisions.
- 16.3 Access to records.
- 16.4 Time limits for grievance filing.
- 16.5 Relationship to other remedies.
- 16.6 Security clearances.
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- 16.8 Agency review.
- 16.9 Records.
- 16.10 Foreign Service Grievance Board.
- 16.11 Grievance Board consideration of grievances.
- 16.12 Hearing.
- 16.13 Decisions.
- 16.14 Reconsideration of a grievance.
- 16.15 Judicial review.

AUTHORITY: Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658); Pub. L. 94-141 (89 Stat. 765); 22 U.S.C. 1037; sec. 10 of E.O. 11636 (36 FR 24901).

SOURCE: 41 FR 13912, Apr. 1, 1976, unless otherwise noted.

### § 16.1 Definitions.

(a) *Act* means the Foreign Service Act of 1946, as amended.

(b) *Grievant* means any officer or employee of the Service who is a citizen of the United States; or for purposes of paragraphs (c) (7) and (8) of this section, a former officer or employee of