

3 FAM 4400 FOREIGN SERVICE GRIEVANCE SYSTEM

3 FAM 4410 FOREIGN SERVICE GRIEVANCE SYSTEM

3 FAM 4411 AUTHORITY

(TL:PER-268; 6-6-95)

(Uniform State/USAID/USIA/Commerce/Foreign Service Corps - USDA)

(Applies to Foreign Service Employees Only)

—Chapter 11 of the Foreign Service Act of 1980, as amended.

3 FAM 4412 DEFINITIONS

(TL:PER-268; 6-6-95)

(Uniform State/USAID/USIA/Commerce/Foreign Service Corps - USDA)

(Applies to Foreign Service Employees Only)

- a. “The Act” means the Foreign Service Act of 1980, as amended.
- b. “Grievant” means any member of the Service who is a citizen of the United States; or for purposes of section 3 FAM 4412c(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.
- c. “Grievance” means any act, omission, or condition subject to the control of a foreign affairs agency which is alleged to deprive a member of the Service, who is a citizen of the United States, of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including, but not limited to:
 - (1) 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 a member;

- (4) Dissatisfaction with respect to the working environment of a member;
- (5) Alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of a 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 procedures under this chapter;
- (7) Alleged denial of an allowance, premium pay, or other financial benefit to which a member claims entitlement under applicable laws or regulations;
- (8) Misinterpretation or misapplication of agency regulations pertaining to the procedural requirements for suspension, reduction, or revocation of an employee's security clearance; and
- (9) Any discrimination prohibited by:
 - Section 717 of the Civil Rights Act of 1964;
 - Section 6(d) of the Fair Labor Standards Act of 1938;
 - Section 501 of the Rehabilitation Act of 1973;
 - Sections 12 and 15 of the Age Discrimination in Employment Act of 1967;
 - or
 - Any rule, regulation, or policy directive prescribed under any provision of law described in this paragraph.

d. Grievance does not include the following:

- (1) An individual assignment of a member under chapter 5 of the Act, other than an assignment alleged to be contrary to law or regulation;
- (2) The judgment of a selection board established under section 602 of the Act, a tenure board established under section 306(b) of the Act, or equivalent body established by laws or regulations which similarly evaluate 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 collective bargaining agreement or prohibited personnel practice(s) arising under those procedures are grievable;
- (3) The expiration of a limited appointment, the termination of a limited appointment under section 612 of the Act, the denial of a limited career extension or of a renewal of a limited career extension under section 607(b) of the Act;

(4) Any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(a)(2) of the Act;

(5) Nonadoption 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.

e. "Foreign affairs agency" or "agency" means the Department of State, the Agency for International Development (USAID), the U.S. Information Agency (USIA), the Department of Commerce and the Department of Agriculture (USDA).

f. "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, USIA, USAID, and Foreign Service employees in the USDA and the Department of Commerce, the exclusive employee representative is the American Foreign Service Association.

g. "Grievance Board" or "Board" means the full Foreign Service Grievance Board, or a Panel or member thereof, as appropriate.

h. "Party" means the grievant, the exclusive representative, or the foreign affairs agency having control over the act or condition forming the subject matter of the grievance.

i. "Bureau" refers to the bureau in the Department of State and the equivalent organizational element in other agencies or the responsible official having jurisdiction and responsibility over the complaint within the agency which has the authority to resolve the grievance prior to agency review. That element is office head for USAID, the associate directorate of area office in USIA, Foreign Service Operations, US/FCS in the Department of Commerce, and the appropriate FAS assistant administrator in the Department of Agriculture.

j. "Days" means calendar days.

k. "Implementation disputes" means any dispute between the agency and the exclusive representative, as set forth in 3 FAM 4470.

l. "Service" means the Foreign Service of the United States.

3 FAM 4413 CLARIFICATION ON THE DEFINITION OF GRIEVANCE

(TL:PER-268; 6-6-95)

(Uniform State/USAID/USIA/Commerce/Foreign Service Corps - USDA)

(Applies to Foreign Service Employees Only)

Nothing in section 4412(d) shall exclude from the term "grievance" any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in section 3 FAM 4412(c)(9).

3 FAM 4414 GRIEVANCES PRIOR TO OCTOBER 28, 1991

(TL:PER-268; 6-6-95)

(Uniform State/USAID/USIA/Commerce/Foreign Service Corps - USDA)

(Applies to Foreign Service Employees Only)

Sections 3 FAM 4412(c)(9), 3 FAM 4413, 3 FAM 4427b, 3 FAM 4428c, d and e, 3 FAM 4455g, and 3 FAM 4462b shall not apply with respect to any grievance arising before October 28, 1991.

3 FAM 4415 THROUGH 4419 UNASSIGNED