

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 4139(a)(2) of this title.

Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) of this section from such term.

(c) This subchapter applies only with respect to the Department of State, Broadcasting<sup>1</sup> Board of Governors, the Agency for International Development, the Department of Agriculture, and the Department of Commerce.

(Pub. L. 96-465, title I, §1101, Oct. 17, 1980, 94 Stat. 2142; Pub. L. 97-241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 102-138, title I, §153(a), Oct. 28, 1991, 105 Stat. 673; Pub. L. 103-236, title I, §§180(a)(10), 181(a)(4)(A), Apr. 30, 1994, 108 Stat. 416, 417; Pub. L. 105-277, div. G, subd. A, title XIII, §1335(k)(4), title XIV, §1422(b)(4)(D), Oct. 21, 1998, 112 Stat. 2681-789, 2681-793.)

#### AMENDMENTS

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

Pub. L. 105-277, §1335(k)(4), substituted “Broadcasting Board of Governors,” for “the United States Information Agency.”

1994—Subsec. (a)(1). Pub. L. 103-236, §180(a)(10), inserted “(other than a United States citizen employed under section 3951 of this title who is not a family member)” after “citizen of the United States” in introductory provisions.

Subsec. (b)(3). Pub. L. 103-236, §181(a)(4), made technical amendment to reference to section 4011 of this title to reflect renumbering of corresponding section of original act.

1991—Subsec. (a)(1)(H). Pub. L. 102-138, §153(a)(1), added subpar. (H).

Subsec. (b). Pub. L. 102-138, §153(a)(2), in par. (4), substituted “section 4139(a)(2)” for “section 4139(b)” and inserted at end “Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) of this section from such term.”

#### CHANGE OF NAME

“United States Information Agency” substituted for “International Communication Agency” in subsec. (c), 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)(4) 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)(D) 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.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-138 not applicable with respect to any grievance, within the meaning of this section, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102-138, set out as a note under section 4115 of this title.

<sup>1</sup> So in original. Probably should be “the Broadcasting”.

### § 4132. Grievances concerning former members or their survivors

Within the time limitations of section 4134 of this title, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this subchapter only with respect to allegations described in section 4131(a)(1)(G) of this title.

(Pub. L. 96-465, title I, §1102, Oct. 17, 1980, 94 Stat. 2143.)

### § 4133. Freedom of action

#### (a) Nature of protection

Any individual filing a grievance under this subchapter (hereinafter in this subchapter referred to as the “grievant”), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

#### (b) Right to representation

(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this subchapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not represented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this subchapter.

#### (c) Administrative leave for witnesses

Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this subchapter.

#### (d) Records

(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance. Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline.

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.