

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this subchapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 4114 of this title; and

(5) take any action considered necessary to administer effectively the provisions of this subchapter.

(b) Consistency or precedence of decisions under other provisions of law

Decisions of the Board under this subchapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this subchapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5.

(c) Implementation

In order to carry out its functions under this subchapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this subchapter; and

(2) the Board may—

(A) adopt other regulations concerning its functions under this subchapter;

(B) conduct appropriate inquiries wherever persons subject to this subchapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas;

(E) require the Department or a labor organization to cease and desist from violations of this subchapter and require it to take any remedial action the Board considers appropriate to carry out this subchapter; and

(F) consistent with the provisions of this subchapter, exercise the functions the Authority has under chapter 71 of title 5 to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

(Pub. L. 96-465, title I, §1007, Oct. 17, 1980, 94 Stat. 2132.)

§ 4108. Functions of General Counsel

The General Counsel may—

(1) investigate alleged unfair labor practices under this subchapter,

(2) file and prosecute complaints under this subchapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

(Pub. L. 96-465, title I, §1008, Oct. 17, 1980, 94 Stat. 2133.)

§ 4109. Judicial review and enforcement

(a) Persons entitled to maintain action; time of filing; venue

Except as provided in section 4114(d) of this title, any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) Enforcement of order; temporary relief or restraining order

The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this subchapter and for any appropriate temporary relief or restraining order.

(c) Applicability of other provisions of law

Subsection (c) of section 7123 of title 5 shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5.

(d) Unfair labor practices

The Board may, upon issuance of a complaint as provided in section 4116 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

(Pub. L. 96-465, title I, §1009, Oct. 17, 1980, 94 Stat. 2133.)

§ 4110. Foreign Service Impasse Disputes Panel

(a) Establishment; composition

There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this subchapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

(1) 2 members of the Service (other than a management official, a confidential employee, or a labor organization official);

(2) one individual employed by the Department of Labor;

(3) one member of the Federal Service Impasses Panel; and

(4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Compensation; travel expenses

Panel members referred to in subsection (a)(3) and (4) shall receive compensation for each day they are performing their duties (including travel-time) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, except that the member who is also a member of the Federal Service Impasse Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4)¹ of title 5. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5.

(c) Impasse investigation and settlement; hearings and other actions upon failure to settle; notice; binding nature of action

(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

(A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or

(B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

(A) hold hearings;

(B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas as provided in section 7132 of title 5; and

(C) take whatever action is necessary and not inconsistent with this subchapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

(Pub. L. 96-465, title I, § 1010, Oct. 17, 1980, 94 Stat. 2133.)

REFERENCES IN TEXT

Section 7119(b)(4) of title 5, referred to in subsec. (b), probably means section 7119(c)(4) of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

¹ See References in Text note below.

§ 4111. Exclusive recognition

(a) Secret ballot election; majority vote

The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) Investigation of petition; hearing; supervision of election; certification of results; length of time between elections

If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) Intervention of labor organizations; placement on ballot

A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d) Eligibility to vote; regulations; choices on ballot; preferential voting; certification as exclusive representative

(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or