

§ 550.802

5 CFR Ch. I (1–1–25 Edition)

reduction, or denial of all or part of the pay, allowances, and differentials otherwise due to the employee. This subpart should be read together with this section of law.

(b) This subpart does not apply to any reclassification action.

[46 FR 58275, Dec. 1, 1981, as amended at 53 FR 18072, May 20, 1988]

§ 550.802 Coverage.

(a) Except as provided in paragraph (b) of this section, this subpart applies to employees, as defined in § 550.803 of this subpart.

(b) This subpart does not apply to—

(1) Employees of the government of the District of Columbia; and

(2) Employees of the Tennessee Valley Authority.

[46 FR 58275, Dec. 1, 1981]

§ 550.803 Definitions.

In this subpart:

Agency has the meaning given that term in section 5596(a) of title 5, United States Code.

Appropriate authority means an entity having authority in the case at hand to correct or direct the correction of an unjustified or unwarranted personnel action, including (a) a court, (b) the Comptroller General of the United States, (c) the Office of Personnel Management, (d) the Merit Systems Protection Board, (e) the Equal Employment Opportunity Commission, (f) the Federal Labor Relations Authority and its General Counsel, (g) the Foreign Service Labor Relations Board, (h) the Foreign Service Grievance Board, (i) an arbitrator in a binding arbitration case, and (j) the head of the employing agency or another official of the employing agency to whom such authority is delegated.

Collective bargaining agreement has the meaning given that term in section 7103(a)(8) of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1002 of the Foreign Service Act of 1980 (22 U.S.C. 4102(4)).

Employee means an employee of an agency. When the term *employee* is used to describe an individual who is making a back pay claim, it also may mean a former employee.

Grievance has the meaning given that term in section 7103(a)(9) of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1101 of the Foreign Service Act of 1980 (22 U.S.C. 4131). Such a grievance includes a grievance processed under an agency administrative grievance system, if applicable.

Pay, allowances, and differentials means pay, leave, and other monetary employment benefits to which an employee is entitled by statute or regulation and which are payable by the employing agency to an employee during periods of Federal employment. Agency and employee contributions to a retirement investment fund, such as the Thrift Savings Plan, are not covered. Monetary benefits payable to separated or retired employees based upon a separation from service, such as retirement benefits, severance payments, and lump-sum payments for annual leave, are not covered.

Unfair labor practice means an unfair labor practice described in section 7116 of title 5, United States Code, and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980 (22 U.S.C. 4115).

Unjustified or unwarranted personnel action means an act of commission or an act of omission (*i.e.*, failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or procedural defects, to have been unjustified or unwarranted under applicable law, Executive order, rule, regulation, or mandatory personnel policy established by an agency or through a collective bargaining agreement. Such actions include personnel actions and pay actions (alone or in combination).

[46 FR 58275, Dec. 1, 1981, as amended at 60 FR 47040, Sept. 11, 1995; 64 FR 69178, Dec. 10, 1999]

§ 550.804 Determining entitlement to back pay.

(a) When an appropriate authority has determined that an employee was affected by an unjustified or unwarranted personnel action, the employee shall be entitled to back pay under section 5596 of title 5, United States Code, and this subpart only if the appropriate authority finds that the unjustified or