

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) Expedition of security clearance procedures

The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

(Pub. L. 96-465, title I, §1103, Oct. 17, 1980, 94 Stat. 2143; Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §329], Nov. 29, 1999, 113 Stat. 1536, 1501A-438.)

Editorial Notes

AMENDMENTS

1999—Subsec. (d)(1). Pub. L. 106-113 inserted at end “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.”

§ 4134. Time limitations

(a) Limitations period

A grievance is forever barred under this subchapter unless it is filed with the Department not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant’s rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case more than three years after the occurrence giving rise to the grievance. There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) Failure of Department to resolve grievance; grievance filed with Foreign Service Grievance Board

If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

(c) Grievances based on alleged discrimination

(1) In applying subsection (a) with respect to an alleged violation of a law, rule, regulation, or policy directive referred to in section 4131(a)(1)(H) of this title, the reference to “2 years” shall be deemed to read “180 days”, subject to paragraph (2).

(2) If the occurrence or occurrences giving rise to the grievance are alleged to have occurred while the grievant was assigned to a post abroad, the 180-day period provided for under paragraph (1) shall not commence until the earlier of—

(A) the date as of which the grievant is no longer assigned to such post; or

(B) the expiration of the 18-month period beginning on the date of the occurrence giving rise to the grievance or the last such occurrence, as the case may be.

(Pub. L. 96-465, title I, §1104, Oct. 17, 1980, 94 Stat. 2144; Pub. L. 102-138, title I, §153(b), Oct. 28, 1991, 105 Stat. 673; Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §330(a), (b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-438; Pub. L. 107-228, div. A, title III, §317, Sept. 30, 2002, 116 Stat. 1379.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-228 substituted “but in no case more than three years” for “but in no case less than two years”.

1999—Subsec. (a). Pub. L. 106-113, §1000(a)(7) [div. A, title III, §330(a)], in first sentence, substituted “not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant’s rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance,” for “within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative.”

Subsec. (c)(1). Pub. L. 106-113, §1000(a)(7) [div. A, title III, §330(b)], substituted “2 years” for “3 years”.

1991—Subsec. (a). Pub. L. 102-138, §153(b)(1), inserted “under this subchapter” before “unless”.

Subsec. (c). Pub. L. 102-138, §153(b)(2), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, §1000(a)(7) [div. A, title III, §330(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A-438, provided that: “The amendments made by this section [amending this section] shall take effect 180 days after the date of enactment of this Act [Nov. 29, 1999] and shall apply to grievances which arise on or after such effective date.”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-138 not applicable with respect to any grievance, within the meaning of section 4131 of this title, 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.

§ 4135. Foreign Service Grievance Board

(a) Establishment; composition

There is established the Foreign Service Grievance Board (hereinafter in this subchapter referred to as the “Board”). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) Appointment and selection of nominees; length of terms; vacancies

The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this subchapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be