

# **3 FAM 4470 IMPLEMENTATION DISPUTE**

## **3 FAM 4471 PURPOSE**

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

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

*(Applies to Foreign Service Employees Only)*

The purpose of this subchapter is to provide for the resolution of any implementation dispute between an agency and the exclusive representative. An implementation dispute is one which directly concerns the rights and obligations of an agency and labor organization toward each other or the rights or obligations between an agency and one or more employees as set forth in a collective bargaining agreement.

## **3 FAM 4472 PROCEDURE**

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

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

*(Applies to Foreign Service Employees Only)*

a. Either party to a collective bargaining agreement may file a complaint with:

State	Director, Grievance Staff;
USAID	Chief, Labor Relations Staff;
USIA	Associate Director for Management;
USDA	Director, Personnel Division, Foreign Agricultural Service;
Commerce	Director, Office of Foreign Service Personnel, Foreign Commercial Service;

or with the president of the labor organization which is the exclusive representative (as appropriate) alleging that an implementation right of the party as reflected in a collective bargaining agreement has been violated. b. A grievance based on a specific fact situation regarding a specific employee may be filed by that bargaining unit employee as an individual grievance under chapter 11 of the Foreign Service Act of 1980, as amended, or where appropriate by an exclusive representative as an implementation dispute under chapter 10. The labor organization, when informed that an individual employee grievance has been filed on the same facts and issues agrees to:

(1) Withdraw its implementation dispute;

(2) Merge its grievance with the employee grievance for processing and decision; or

(3) Hold in abeyance its implementation dispute until the facts and issues on the employee grievance are decided at the agency level.

c. A labor organization shall have the right to file an implementation dispute where it alleges the agency decision or settlement of the individual grievance is inconsistent with the terms of a collective bargaining agreement.

d. The complaint must be filed within 120 calendar days of the alleged violation and must be submitted in writing with specificity as to date and nature of the alleged violation. There shall be excluded from the computation of any such period any time during which the party was unaware of the grounds for the complaint.

e. The party against whom the complaint is filed shall have 45 calendar days in which to investigate and respond to the complaint. The response shall be issued by the responsible officials as specified in 3 FAM 4434.2.

f. If the dispute is not satisfactorily resolved, the moving party may file a complaint within 45 calendar days from the date of the response (or in any case must file within 90 days of filing the implementation dispute) with the Foreign Service Grievance Board in writing and with specificity as to the nature of the violation.

### **3 FAM 4473 GRIEVANCE BOARD**

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

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

*(Applies to Foreign Service Employees Only)*

The action of the Foreign Service Grievance Board shall be final and binding and shall be implemented by the parties, unless an exception is filed with the Foreign Service Labor Relations Board within 30 days after the receipt of the Grievance Board action.

### **3 FAM 4474 FOREIGN SERVICE LABOR RELATIONS BOARD**

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

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

*(Applies to Foreign Service Employees Only)*

The Foreign Service Labor Relations Board, under its rules and regulations and the criteria in section 1014(b) of the Act, shall take appropriate action on cases referred to it.

### **3 FAM 4475 ARBITRABILITY DETERMINATIONS**

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

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

*(Applies to Foreign Service Employees Only)*

Questions that cannot be resolved by the parties as to whether a complaint is subject to this procedure, may be referred by either party to the Foreign Service Grievance Board for a threshold determination.

### **3 FAM 4476 FINALITY OF CHOICE**

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

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

*(Applies to Foreign Service Employees Only)*

An alleged violation of an implementation right as reflected in a collective bargaining agreement may be filed under these procedures or as an unfair labor practice, but not both.

### **3 FAM 4477 REVIEW**

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

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

*(Applies to Foreign Service Employees Only)*

Resolution of disputes under this subchapter shall not be subject to judicial review.

### **3 FAM 4478 AND 4479 UNASSIGNED**