

# **3 FAM 5120**

## **NEGOTIATIONS AND CONSULTATION**

*(TL:PER-347; 11-12-1997)*

### **3 FAM 5121 NEGOTIATION**

#### **3 FAM 5121.1 Bargain In Good Faith**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may determine appropriate techniques to assist in any negotiation.

#### **3 FAM 5121.2 Obligations**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation:

- (1) To approach the negotiations with a sincere resolve to reach a collective bargaining agreement;
- (2) To be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;
- (3) To meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;
- (4) For the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data:
  - (a) Which is normally maintained by the Department in the regular course of business;
  - (b) Which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(c) Which does not constitute guidance, advice, counsel, or training provided for Civil Service supervisors, management officials or confidential employees, relating to collective bargaining;

(5) To negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) If agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

### **3 FAM 5121.3 Labor Management Negotiator**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The Labor Management Negotiator, Policy Coordination Staff (DGP/PC/LM) has the responsibility to represent the Department in negotiations with the exclusive representative. This designation has been made to facilitate the centralized and expeditious processing of labor relations matters. Other officers in the Department whose responsibilities include the development of policies and procedures affecting working conditions are required to keep DGP/PC/LM informed of developments in their areas which affect DGP/PC/LM's responsibilities. In executing its responsibilities, DGP/PC/LM will coordinate with appropriate officials.

### **3 FAM 5121.4 Changes in Personnel Policy or Procedures**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. The Department, through DGP/PC/LM, and the exclusive representative shall inform each other of any proposed changes in personnel policies, practices or matters, whether established by regulation or otherwise, affecting working conditions, in accordance with the applicable collective bargaining agreement. *Each bureau is responsible for notifying the exclusive representative of proposed changes in personnel policies, practices, or matters which are bureau-specific.*

b. During good faith negotiations, the Department shall not institute a proposed change in personnel policies or procedures affecting conditions of employment in the bargaining unit until the parties have had a reasonable opportunity to reach agreement, or, if the parties do not agree as to the obligation to negotiate, until the issue of whether the obligation to negotiate exists is resolved.

### **3 FAM 5121.5 Role of Under Secretary for Management**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. An agreement between the Department and the exclusive representative is subject to approval by the Under Secretary for Management as designated by the Secretary.

b. In the event that the Under Secretary disapproves an agreement, the parties will resume negotiations or consultation within 30 days of those proposed changes which were found to be contrary to applicable law, rule, or regulation. The same rule will apply if the exclusive representative, pursuant to its bylaws and charter, fails to ratify changes in an agreement reached by its negotiators.

(1) The Under Secretary for Management shall approve the agreement within 30 days after the date of the agreement unless the Under Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(2) Unless the Under Secretary approves or disapproves the agreement, the agreement shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

### **3 FAM 5121.6 Impasse**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

When good faith negotiations do not result in agreement, either the Department or the exclusive representative may request the appropriate Panel to consider the impasse pursuant to its regulations. While the impasse is before the Panel, neither party shall implement the proposed change except to the extent mutually agreed, or determined by the Department to be necessary to carry out its mission in emergencies. Decisions of the Panel will be binding unless the parties agree otherwise.

### **3 FAM 5122 CONSULTATION ON GOVERNMENT-WIDE OR MULTI-AGENCY MATTERS**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. The Department, through the Labor-Management Negotiator (DGP/PC/LM), shall consult with the exclusive representative with respect to Government-wide or multi-agency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system.

b. The exclusive representative shall be informed of any changes proposed by the Department with respect to such matters, and shall be permitted reasonable time to present its views and recommendations regarding such changes.

c. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

### **3 FAM 5123 JOINT NEGOTIATIONS**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The Labor Management Negotiator (DGP/PC/LM) has the responsibility to represent the Department in joint negotiations with the exclusive representative, when a personnel policy is for application jointly to Foreign Service employees in more than one foreign affairs agency. Procedures for joint negotiations will be established by the foreign affairs agencies and the appropriate exclusive representatives in those agencies.

### **3 FAM 5124 GRIEVANCE PROCEDURES**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The procedures for grievances are:

<b>Employee Type</b>	<b>Reference</b>
Foreign Service members	See 3 FAM 4300
Civil Service employees who are bargaining unit employees	See applicable collective bargaining agreement

### **3 FAM 5125 RESOLUTION OF IMPLEMENTATION DISPUTES**

*(TL:PER-347; 11-12-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures shall:

- (1) Be fair and simple;
- (2) Provide for expeditious processing;
- (3) Provide for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled; or
- (4) Provide for binding arbitration by either party of any grievance not satisfactorily settled, filed under a Civil Service collective bargaining agreement.

### **3 FAM 5126 THROUGH 5129 UNASSIGNED**