

Memo

To: OFSHR, Mack, Dale

From: Nancy J. Kripner *njk*

Date: 07/27/01

Re: Changes to the CBA

Attached for your information and filing, if you maintain a copy of the CBA, are revised pages concerning timelines for negotiations (pages 16, 16a, 17) and a revised page 28 referencing the DAO on sexual orientation.

MEMORANDUM OF UNDERSTANDING

1. In accordance with the Foreign Service Act (Act) at 22 U.S.C. 4113 and Article XV, Section 1 of their collective bargaining agreement (CBA), the U.S. & Foreign Commercial Service (US&FCS) and the American Foreign Service Association (AFSA) have satisfied their collective bargaining obligations with respect to the agreed-upon changes to the CBA described below.

Change (1)

Article VIII, Conduct of Labor Relations, Section 2: Items (B) and (C) are modified, and new Items (D) and (E) are added as follows (Changes in Bold Face):

Article VIII (Conduct of Labor Management Relations) Section 2

- (B) AFSA must request negotiations with respect to the proposed change(s) within 20 work days from AFSA's receipt of the notification of the proposed change(s). AFSA must submit its counter-proposals **or** any request for clarification with its request to negotiate. If a request to negotiate is not submitted within this time frame, it shall be deemed to constitute acceptance of the proposed change by AFSA, allowing for implementation.
- (C) If within their request to negotiate, AFSA requests clarification of any proposed change(s), US&FCS shall address the request **within 15 workdays**. AFSA will then have 15 workdays from receipt of clarification to submit its counter-proposals.
- (D) US&FCS must submit its response to AFSA's counter-proposals **within 15 workdays**. Any negotiations will be conducted in accordance with the agreement on ground rules for negotiations.
- (E) Once the parties reach agreement on the items negotiated, they shall sign a memorandum of understanding documenting the items agreed upon during negotiations, within 15 workdays.

Change (2)

Article VIII, Section 3, Mid-Term Bargaining: Items (B), (C) and (D) are modified, and new Items (E) and (F) are added as follows (Changes in Bold Face):

Section 3: Mid-Term Bargaining

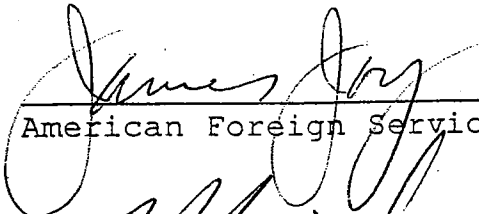
- (B) Upon receipt of AFSA's proposal(s), the US&FCS **must submit any counter-proposals or a request for clarification within 20 workdays.**
- (C) Upon receipt of a request for clarification, AFSA shall **address the request within 15 workdays.**
- (D) US&FCS **must submit any counter-proposals to AFSA within 15 workdays of receipt of AFSA's clarification.**
- (E) AFSA **must submit its response to US&FCS's counter proposals within 15 workdays. Any negotiations will be conducted in accordance with the agreement on ground rules for negotiations.**
- (F) Once the parties reach agreement on the items negotiated, they shall sign a memorandum of understanding documenting the items agreed upon during negotiations, **within 15 workdays.**

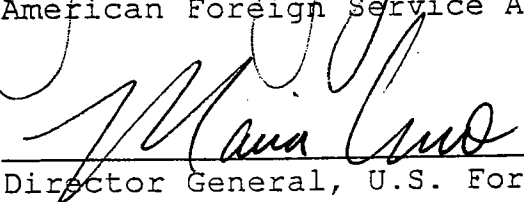
Change (3)

Article XI (Equal Employment Opportunity), Section 4, is modified as follows (Changes in Bold Face):

Department Administrative Order 215-11, **Complaint Processing for Sexual Orientation Discrimination**, prohibits discrimination on the basis of sexual orientation. In addition, it is the policy of US&FCS not to discriminate on the basis of sexual orientation. An employee who believes he/she has been discriminated against based on sexual orientation may file a grievance under Chapter 11 of the Act or pursue any other available course of action.

2. The above changes will be incorporated in the CBA upon completion of Agency Head Review.


American Foreign Service Association July 16, 2001
Date


Director General, U.S. Foreign & Commercial Service JULY 23, 2001
Date

Superseded

ARTICLE VIII
CONDUCT OF LABOR-MANAGEMENT RELATIONS

Section 1. General

US&FCS and AFSA shall conduct negotiations and other dealings in good faith and in such manner as will further the public interest.

Section 2. The parties agree that AFSA shall be given the opportunity to bargain to the extent required by law with respect to proposed changes in conditions of employment.

(A) Notice of changes will be given to the AFSA Vice President or, in his/her absence, to the designee. In cases affecting overseas posts where US&FCS has been notified of a representative, it shall also provide a copy of the notice to such representative.

(B) AFSA must request negotiations with respect to the proposed change(s) within 20 work days from AFSA's receipt of the notification of the proposed change(s). AFSA must submit its counter-proposals and any request for clarification with its request to negotiate. If a request to negotiate is not submitted within this time frame, it shall be deemed to constitute acceptance of the proposed change by AFSA, allowing for implementation.

(C) If within their request to negotiate, AFSA requests clarification of any proposed change(s), US&FCS shall address the request in a timely manner. AFSA will then have 10 work days from receipt of clarification to submit any revision(s) to its original proposals.

Section 3: Mid-Term Bargaining

(A) AFSA may annually propose to the US&FCS, in writing, up to three (3) changes in conditions of employment by August 1 and up to three (3) changes in conditions of employment by February 1 of each year.

(B) Upon receipt of AFSA's proposal(s), the US&FCS may within 15 work days of this notice, request clarification of the proposal(s).

(C) Upon receipt of a request for clarification, AFSA shall respond in a timely manner.

Superseded

(D) US&FCS may submit counter-proposals to AFSA within 15 work days after AFSA's clarification.

Section 4. When good faith negotiations do not result in agreement, either party may request the Foreign Service Impasse Disputes Panel to consider the impasse or they may seek mediation of the matter. While the impasse is before that Panel or a mediator, US&FCS may not implement the proposed change except to the extent mutually agreed or as provided in Section 6 of this Article.

Section 5. If US&FCS asserts that there is no obligation to bargain over AFSA proposals because they are non-negotiable, US&FCS and AFSA agree to meet and attempt to resolve the negotiability dispute. In order to give the parties an opportunity to voluntarily resolve the dispute, US&FCS agrees not to implement its proposed action for a period of 60 calendar days, except to the extent mutually agreed or to the extent necessary to carry out US&FCS's mission during emergencies or extraordinary circumstances. If the parties cannot resolve the dispute, US&FCS shall notify AFSA in writing of its allegation of non-negotiability and whether it intends to implement the proposed action. Nothing in this section shall affect AFSA's right to file a negotiability appeal with the FSLRB.

Section 6. Nothing in this Article shall affect the authority of US&FCS to take actions that are absolutely necessary for the functioning of US&FCS. In the event of an emergency, an overriding exigency or extraordinary circumstances, US&FCS reserves the right to make changes in the conditions of employment as may be necessary to carry out its mission without regard to the provisions of this Article.

Section 7. Nothing herein shall preclude the parties by mutual consent from extending any time limits imposed under this Article.

Section 8. Any negotiated agreements will be set forth in a Memorandum of Understanding, hereinafter "MOU," executed by the parties. Such MOUs shall run concurrently with the collective bargaining agreement, unless otherwise specified by the parties. All such agreements are subject to approval of the Department head.

Section 9. The parties shall agree on mutually satisfactory arrangement for the conduct of these required negotiations. Where they cannot agree, groundrules will be negotiated.

superseded

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Section 3.

AFSA and US&FCS shall not discriminate against any employee on the basis of race, color, religion, national origin, sex, age, or disabling condition. In accordance with Chapter 11, Grievances, Section 1109, of the Act, an employee who believes that he/she has been discriminated against on the basis of the foregoing may either file a formal complaint with the DOC Office of Civil Rights or a grievance under Chapter 11 of the Act, but not both. An employee shall be deemed to have exercised his/her option at such time as the employee timely initiates a formal complaint or timely files a grievance in accordance with the provisions of Chapter 11.

Section 4.

Although not required by law, it is the policy of US&FCS not to discriminate on the basis of sexual orientation. An employee who believes he/she has been discriminated against based on sexual orientation may file a grievance under Chapter 11 of the Act or pursue any other available course of action.

Section 5.

The Senior Advisor for Human Resource Development and Personnel Officer agree to meet with AFSA's US&FCS Vice-President a minimum of twice a year, or more frequently by mutual agreement, to discuss diversity in the workplace and EEO initiatives.

ARTICLE XII
ADVISORY, REFERRAL, AND COUNSELING SERVICE PROGRAM

Section 1. Objective

US&FCS is concerned with the accomplishment of its mission and the requisite need to maintain employee productivity. US&FCS seeks to provide humanitarian consideration in cases of alcoholism and drug abuse in a manner which protects both the interests of the U.S. Government and the rights of the employee or patient involved.

Section 2. Overseas Posts

US&FCS employees at overseas posts suffering from alcohol or drug