

–CITE–

39 USC CHAPTER 12 – EMPLOYEE–MANAGEMENT AGREEMENTS 01/06/03

–EXPCITE–

TITLE 39 – POSTAL SERVICE

PART II – PERSONNEL

CHAPTER 12 – EMPLOYEE–MANAGEMENT AGREEMENTS

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CHAPTER 12 – EMPLOYEE–MANAGEMENT AGREEMENTS

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Sec.

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–SECREf–

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1001, 1003, 1004, 1005,

1007, 2010, 3604 of this title; title 18 section 205.

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Sec. 1201. Definition

~~–STATUTE–~~

As used in this chapter, "guards" means –

(1) maintenance guards who, on the effective date of this chapter, are in key position KP–5 under the provisions of former section 3514 of title 39; and

(2) security guards, who may be employed in the Postal Service and whose primary duties shall include the exercise of authority to enforce rules to protect the safety of property, mail, or persons on the premises.

~~–SOURCE–~~

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

~~–REFTEXT–~~

REFERENCES IN TEXT

The effective date of this chapter, referred to in par. (1), is July 1, 1971. See Effective Date note below.

Former section 3514 of title 39, referred to in par. (1), means section 3514 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

–MISC1–

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71–9 of the Board of Governors. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

LABOR AGREEMENTS

Section 10 of Pub. L. 91–375 provided that:

"(a) [Wages, Hours, and Working Conditions; Parties to Agreement]

As soon as practicable after the enactment of this Act [Aug. 12, 1970], the Postmaster General and the labor organizations which as of the effective date of this section [see note below] hold national exclusive recognition rights granted by the Post Office Department, shall negotiate an agreement or agreements covering wages, hours, and working conditions of the employees represented by such labor organizations. The parties shall commence bargaining for such agreement or agreements not later than 30 days following delivery of a written request therefor by a labor organization to the Postmaster General or by the Postmaster General to a labor organization. Any agreement made pursuant to this section shall continue in force after the commencement of operations of the United States Postal Service in the same manner and to the same extent as if entered into between the Postal Service and recognized collective–bargaining representatives under chapter 12 of title 39, United States Code.

"(b) [Wage Schedule; Service Period for Maximum Pay; Pay Step Advancement] Any agreement negotiated under this section shall

establish a new wage schedule whereunder postal employees will reach the maximum pay step for their respective labor grades after not more than 8 years of satisfactory service in such grades. The agreements shall provide that where an employee had sufficient satisfactory service in the pay step he occupied on the effective date of this section [see note below] to have qualified for advancement to the next highest pay step under the new wage schedule, had such schedule been in effect throughout the period of such service, the employee shall be advanced to such next highest pay step in the new schedule on the effective date of the new schedule.

"(c) [Effective Date; Establishment of Wages, Hours, and Working Conditions] An agreement made under this section shall become effective at any time after the commencement of bargaining, in accordance with the terms thereof. The Postmaster General shall establish wages, hours, and working conditions in accordance with the terms of any agreement or agreements made under this section notwithstanding the provisions of any law other than title 39.

"(d) [Fact-finding Panel, Other Procedure, or Arbitration Board for Resolution of Differences] If the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a fact-finding panel will be established in accordance with the terms of section 1207(b) of title 39, United States Code, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective

bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of section 1207(c) of such title.

"(e) [Appropriation Provisions Inapplicable] Agreements made pursuant to this section and expenditures made under such agreements shall not be subject to the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665) [sections 1341, 1342, and 1349–1351, subchapter II and chapter 15 of Title 31, Money and Finance].

"(f) [References to Title 39] For the purposes of this section, references to title 39 and sections of title 39 are references to title 39, United States Code, as enacted by section 2 of this Act." [Provisions of section 10 of Pub. L. 91–375 effective Aug. 12, 1970, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of this title.]

–End–

–CITE–

39 USC Sec. 1202 01/06/03

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Sec. 1202. Bargaining units

–STATUTE–

The National Labor Relations Board shall decide in each case the unit appropriate for collective bargaining in the Postal Service.

The National Labor Relations Board shall not include in any bargaining unit –

- (1) any management official or supervisor;
- (2) any employee engaged in personnel work in other than a purely nonconfidential clerical capacity;
- (3) both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or
- (4) together with other employees, any individual employed as a security guard to enforce against employees and other persons, rules to protect property of the Postal Service or to protect the safety of property, mail, or persons on the premises of the Postal Service; but no labor organization shall be certified as the representative of employees in a bargaining unit of security guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 733.)

–End–

–CITE–

39 USC Sec. 1203 01/06/03

–EXPCITE–

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Sec. 1203. Recognition of labor organizations

–STATUTE–

(a) The Postal Service shall accord exclusive recognition to a labor organization when the organization has been selected by a majority of the employees in an appropriate unit as their representative.

(b) Agreements and supplements in effect on the date of enactment of this section covering employees in the former Post Office Department shall continue to be recognized by the Postal Service until altered or amended pursuant to law.

(c) When a petition has been filed, in accordance with such regulations as may be prescribed by the National Labor Relations Board –

(1) by an employee, a group of employees, or any labor organization acting in their behalf, alleging that (A) a substantial number of employees wish to be represented for collective bargaining by a labor organization and that the Postal Service declines to recognize such labor organization as the representative; or (B) the labor organization which has been certified or is being currently recognized by the Postal Service as the bargaining representative is no longer a representative; or

(2) by the Postal Service, alleging that one or more labor

organizations has presented to it a claim to be recognized as the representative;

the National Labor Relations Board shall investigate such petition and, if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the National Labor Relations Board, who shall not make any recommendations with respect thereto. If the National Labor Relations Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(d) A petition filed under subsection (c)(1) of this section shall be accompanied by a statement signed by at least 30 percent of the employees in the appropriate unit stating that they desire that an election be conducted for either of the purposes set forth in such subsection.

(e) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the National Labor Relations Board.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 734.)

–REFTEXT–

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec.

(b), means the date of enactment of Pub. L. 91–375, which was

approved Aug. 12, 1970.

~~–SECRET–~~

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1004, 1206, 1209 of this title; title 5 section 8473.

~~–End–~~

~~–CITE–~~

39 USC Sec. 1204 01/06/03

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Sec. 1204. Elections

~~–STATUTE–~~

(a) All elections authorized under this chapter shall be conducted under the supervision of the National Labor Relations Board, or persons designated by it, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union".

(b) In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for a selection between the 2 choices receiving the largest and second largest number of valid votes cast in the election. In the event of a tie vote, additional runoff elections

shall be conducted until one of the choices has received a majority of the votes.

(c) No election shall be held in any bargaining unit within which, in the preceding 12-month period, a valid election has been held.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 735.)

–End–

–CITE–

39 USC Sec. 1205 01/06/03

–EXPCITE–

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Sec. 1205. Deductions of dues

–STATUTE–

(a) When a labor organization holds exclusive recognition, or when an organization of personnel not subject to collective-bargaining agreements has consultation rights under section 1004 of this title, the Postal Service shall deduct the regular and periodic dues of the organization from the pay of all members of the organization in the unit of recognition if the Post Office Department or the Postal Service has received from each employee, on whose account such deductions are made, a written assignment which shall be irrevocable for a period of not more than

one year.

(b) Any agreement in effect immediately prior to the date of enactment of the Postal Reorganization Act between the Post Office Department and any organization of postal employees which provides for deduction by the Department of the regular and periodic dues of the organization from the pay of its members, shall continue in full force and effect and the obligation for such deductions shall be assumed by the Postal Service. No such deduction shall be made from the pay of any employee except on his written assignment, which shall be irrevocable for a period of not more than one year.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 735.)

–REFTEXT–

REFERENCES IN TEXT

The date of enactment of the Postal Reorganization Act, referred to in subsec. (b), means the date of enactment of Pub. L. 91–375, which was approved Aug. 12, 1970.

–End–

–CITE–

39 USC Sec. 1206 01/06/03

–EXPCITE–

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Sec. 1206. Collective–bargaining agreements

–STATUTE–

(a) Collective–bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203 of this title shall be effective for not less than 2 years.

(b) Collective–bargaining agreements between the Postal Service and bargaining representatives recognized under section 1203 may include any procedures for resolution by the parties of grievances and adverse actions arising under the agreement, including procedures culminating in binding third–party arbitration, or the parties may adopt any such procedures by mutual agreement in the event of a dispute.

(c) The Postal Service and bargaining representatives recognized under section 1203 may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective–bargaining agreement.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 735.)

–MISC1–

USE OF FUNDS FOR RESTRUCTURING OF EMPLOYEE COMPENSATION PRACTICES

Pub. L. 98–396, title III, Sec. 303, Aug. 22, 1984, 98 Stat.

1422, provided that: "None of the funds made available to the United States Postal Service under this Act [see Tables for classification] or any other Act may be used to restructure employee compensation practices as in effect under the most recently effective collective bargaining agreement under section 1206 of title 39, United States Code, except in accordance with the

results of procedures set forth in section 1207 of such title."

–End–

–CITE–

39 USC Sec. 1207 01/06/03

–EXPCITE–

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Sec. 1207. Labor disputes

–STATUTE–

(a) If there is a collective–bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice, if no agreement has been reached by that time.

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall direct the establishment

of a factfinding panel consisting of 3 persons. For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select 1 person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall issue after due investigation a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.

(c)(1) If no agreement is reached within 90 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, not members of the factfinding panel, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director. If the parties do not agree on the framing of the issues to be submitted, the factfinding panel shall frame the issues and submit them to the arbitration board.

(2) The arbitration board shall give the parties a full and fair

hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

(3) Costs of the arbitration board and factfinding panel shall be shared equally by the Postal Service and the bargaining representative.

(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a factfinding panel will be established in accordance with the terms of subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 735.)

–End–

–CITE–

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Sec. 1208. Suits

~~–STATUTE–~~

(a) The courts of the United States shall have jurisdiction with respect to actions brought by the National Labor Relations Board under this chapter to the same extent that they have jurisdiction with respect to actions under title 29.

(b) Suits for violation of contracts between the Postal Service and a labor organization representing Postal Service employees, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy.

(c) A labor organization and the Postal Service shall be bound by the authorized acts of their agents. Any labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against a labor organization in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(d) For the purposes of actions and proceedings by or against

labor organizations in the district courts of the United States, district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal offices, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(e) The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 736.)

–End–

–CITE–

39 USC Sec. 1209 01/06/03

–EXPCITE–

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Sec. 1209. Applicability of Federal labor laws

–STATUTE–

(a) Employee–management relations shall, to the extent not inconsistent with provisions of this title, be subject to the provisions of subchapter II of chapter 7 of title 29.

(b) The provisions of chapter 11 of title 29 shall be applicable

to labor organizations that have or are seeking to attain recognition under section 1203 of this title, and to such organizations, officers, agents, shop stewards, other representatives, and members to the extent to which such provisions would be applicable if the Postal Service were an employer under section 402 of title 29. In addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall have authority, by regulation issued with the written concurrence of the Postal Service, to prescribe simplified reports for any such labor organization. The Secretary of Labor may revoke such provision for simplified forms of any such labor organization if he determines, after such investigation as he deems proper and after due notice and opportunity for a hearing, that the purposes of this chapter and of chapter 11 of title 29 would be served thereby.

(c) Each employee of the Postal Service shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

–SOURCE–

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 737.)

–End–

–CITE–

39 USC PART III – MODERNIZATION AND FISCAL ADMINISTRATION 01/06/03

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Chap. Sec.

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28. Strategic Planning and Performance Management 2801

AMENDMENTS

1993 – Pub. L. 103–62, Sec. 11(c), Aug. 3, 1993, 107 Stat. 296,

added item for chapter 28.

–End–