

54 *Administering a labor relations statute*

Three sections of the Statute discuss exclusions based on duties related to “administering a labor relations statute.”

Section 7103(a)(3) excludes from the definition of “agency” the Federal Labor Relations Authority and the Federal Service Impasses Panel.

Section 7112(b)(4) excludes from any bargaining unit “an employee engaged in administering any provisions of the Statute.” This provision includes federal mediators of the Federal Mediation and Conciliation Service who were found to administer the provisions of Section 7119(a) of the Statute and, therefore, are not eligible for representation. *Federal Mediation and Conciliation Service, Region 7, San Francisco, California*, 3 FLRA 138 (1980); and *Federal Mediation and Conciliation Service*, 52 FLRA 1509 (1997).

Other federal employees are employed by federal agencies which administer statutes that pertain to labor-management relations. As to their situation, **section 7112(c)** provides as follows:

Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization --

- 1) which represents other individuals to whom such provisions applies; or
- 2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provisions applies.

Section 7112(c) pertains solely to those employees who are involved in administering a law intended to affect or regulate, in some way, the **collective bargaining process** or other matters directly affecting the labor-management relationship. *U.S. Department of Labor, Pension and Welfare Benefits Administration*, 38 FLRA 65 (1990). Section 7112(c) of the Statute does not prohibit these employees from being represented by a union in a bargaining unit. Rather, section 7112(c) places restrictions on the types of unions that can represent such employees.

For detailed guidance on these three sections of the Statute, see RCL 18.

Relevant Information: The record includes the following information:

- 1) Copy of the mission, organization and functional statements of the agency employing the employees in questions.
- 2) Copies of any laws or regulations which this agency administers.
 - a) Which of these laws or regulations relate to labor-management relations?
 - b) How do these laws or regulations relate to labor-management relations?
 - c) In what way does the law administered by the agency intended to affect or regulate, in some way, the **collective bargaining process** or other matters directly affecting the labor-management relationship?
- 3) Copies of the position description and performance standards for the positions at issue.
 - a) Obtain testimony about the duties of these employees, as they relate to the laws or regulations that allegedly involve the collective bargaining process?
 - b) Examine the duties and responsibilities of the employees to determine whether and the extent to which the employees administer the law or regulation that allegedly involves the collective bargaining process.
- 4) What labor organization is seeking to represent these employees?
 - a) Does this labor organization represent other employees? If so, who and in what bargaining units?
 - b) Is this labor organization affiliated directly or indirectly with any other labor organization(s) and what units of employees does that labor organization(s) represent?
- 5) Are there other employees in the agency who are in bargaining units; if so, describe.