

74 FLRA No. 61

JOSEPH ANTHONY REYNA
(Individual/Petitioner)

0-PS-49

DECISION ON GENERAL STATEMENT OF POLICY
OR GUIDANCE

May 5, 2026

Before the Authority: Colleen Duffy Kiko, Chairman,
and Anne Wagner and Charles O. Arrington, Members

I. Statement of the Case

The Petitioner, in his capacities as founder and director of the nonprofit organization “Dreams Over Dollars,” filed a request for a general statement of policy or guidance (request) under § 2427.2 of the Authority’s Regulations.¹ Thereafter, the Authority’s Office of Case Intake and Publication (CIP) issued an order directing the Petitioner to serve CIP with the request at the correct address; serve the request on the Federal Labor Relations Authority’s Deputy General Counsel; provide “the relevant standards from 5 C.F.R. § 2427.5 upon which the request is based;” and respond to the order by filing a statement of service with CIP that complies with the Authority’s Regulations.² In response to the Authority’s order, the Petitioner amended the request to present the following issues:

1. Whether the Authority recognizes that retaliation by omission—including refusal to engage, procedural exclusion, or coordinated administrative silence—can functionally

¹ 5 C.F.R. § 2427.2. As the Petitioner is “[t]he head of a[] lawful association not qualified as a labor organization,” we find that the Petitioner may file a request for “a general statement of policy or guidance” under § 2427.2(a) of the Authority’s Regulations. *Id.* § 2427.2(a); *see also NTEU*, 73 FLRA 428, 428 (2023) (Chairman Grundmann concurring) (rejecting proposed amendment to 5 C.F.R. § 2427.2(a) that would have permitted “only federal agencies, unions, and lawful associations of federal employees to request policy statements”).

² Authority Order at 1-2.

undermine the policies expressed in 5 U.S.C. § 7101, even where the affected individual is not a formal “employee” under § 7103(a).

2. Whether labor-relations principles permit agencies to benefit from oversight, reporting, or compliance labor while disclaiming any obligation to avoid conduct that would be impermissible if directed at an internal employee or exclusive representative.
3. Whether the Authority views the protection of participation in public-interest oversight as consistent with the [Federal Service Labor-Management Relations] Statute’s³ [(the Statute’s)] purpose of safeguarding the effective operation of government through fair and accountable labor practices, regardless of payroll status.⁴

The Petitioner contends that agencies “routinely interact with non-employee actors who perform functions materially indistinguishable from” employees covered by the Statute.⁵ According to the Petitioner, non-employees lack any process by which to contest an agency’s “retaliatory or exclusionary conduct” because these individuals “fall outside traditional [federal] employment or bargaining-unit classifications.”⁶ Essentially, the Petitioner seeks clarification as to whether non-federal entities may be accorded the same rights and procedures as employees or exclusive representatives under the Statute when conducting activities relating to the oversight of federal agencies.⁷

II. Decision

In determining whether to issue a policy statement, the Authority considers, as relevant here, whether doing so “would promote constructive and cooperative labor-management relationships in the [f]ederal service and would otherwise promote the

³ 5 U.S.C. §§ 7101-7135.

⁴ Resp. to Authority Order at 2 (emphasis omitted). The statement of service included with the Petitioner’s response shows that the Petitioner addressed his response to the wrong suite number for both CIP and the Deputy General Counsel. *Id.* at 1. However, because we deny the request below, any procedural deficiency in the Petitioner’s service of the response is a harmless error. Accordingly, we need not consider whether the Petitioner’s response complied with the Authority’s order. *See, e.g., NTEU*, 72 FLRA 182, 184 n.17 (2021) (where Authority denied exceptions on the merits, any procedural deficiency in service of exceptions deemed “harmless error” (citing *U.S. Dep’t of Transp., FAA*, 68 FLRA 402, 403-04 (2015))).

⁵ Resp. to Authority Order at 1 (emphasis omitted).

⁶ *Id.* at 1-2.

⁷ *Id.*

purposes of the [Statute].”⁸ As the Petitioner asks the Authority to clarify the scope of the Statute’s coverage, we begin by examining whether the statutory language at issue in the request is plain and unambiguous.⁹ If it is, then we “must apply the statute according to its terms.”¹⁰ Applying canons of statutory construction, we recognize that there is a “presumption that when a statute designates certain persons, things, or manners of operation, all omissions should be understood as exclusions.”¹¹

Fundamentally, the Statute “prescribe[s] certain rights and obligations” to “employees of the [f]ederal [g]overnment” – including the right to act through “labor organizations of their own choosing” – and “establish[es] procedures which are designed to meet the special requirements and needs of the [g]overnment.”¹² Per § 7103(a), the Statute applies to “employee[s]” of the federal government,¹³ “[e]xecutive agenc[ies],” subject to certain exceptions,¹⁴ and “labor organizations” that represent federal employees in matters concerning their employment.¹⁵ On its face, the Statute governs the rights and obligations of only those individuals and organizations that are part of a federal labor-management relationship.¹⁶

The Petitioner concedes, and we agree, that the request seeks policy guidance as to individuals who do not qualify as “employee[s],” and do not act on behalf of “labor organization[s],” within the meaning of § 7103(a).¹⁷ The Petitioner does not assert that § 7103(a) is ambiguous or identify any indicia that Congress intended the Statute

to cover non-federal entities when they perform “functions materially indistinguishable” from those of § 7103(a) employees and labor organizations.¹⁸ Thus, giving effect to § 7103(a)’s plain wording, we assume that Congress intentionally omitted from the Statute’s coverage the “non-employee actors” that the Petitioner would have us address in the requested policy statement.¹⁹ Although the Petitioner implies that the broad “labor-relations principles” and “policies” underlying the Statute should take precedence over § 7103(a)’s specific language, the Petitioner fails to explain that assertion or otherwise support his interpretation of the Statute’s purpose.²⁰ Moreover, such general considerations of statutory policy do not warrant what would be an extraordinary expansion of the Statute’s coverage to an indeterminate number of individuals not covered by the Statute’s plain wording. Additionally, we note that the Petitioner does not provide evidence of agencies actually engaging in the “retaliatory or exclusionary conduct” alleged in the request.²¹

Because the Petitioner does not establish that either the plain language of the Statute, or evidence of congressional intent, supports the requested policy statement, the Petitioner does not demonstrate that issuing the requested policy statement would “promote the purposes of the [Statute].”²² Consequently, we conclude that the request fails to meet the Authority’s standards governing the issuance of general statements of policy and guidance.²³

⁸ 5 C.F.R. § 2427.5(f).

⁹ See *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 100 (2012) (first step of statutory construction is “consider[ing] whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case” (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)) (internal quotation marks omitted)); see also *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 175-76 (2009) (“Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.” (quoting *Engine Mfrs. Ass’n v. S. Coast Air Quality Mgmt. Dist.*, 541 U.S. 246, 252 (2004)) (internal quotation marks omitted)).

¹⁰ *Carciere v. Salazar*, 555 U.S. 379, 387 (2009); see also *A.F. ex rel. Christine B. v. Espanola Pub. Schs.*, 801 F.3d 1245, 1249 (10th Cir. 2015) (holding that when “the terms of [a] statute are clear and unambiguous, the inquiry ends and we simply give effect to the plain language of the statute” (quoting *United States v. Sprenger*, 625 F.3d 1305, 1307 (10th Cir. 2010))).

¹¹ *Castillo v. Metro. Life Ins. Co.*, 970 F.3d 1224, 1232 (9th Cir. 2020) (quoting *Copeland v. Ryan*, 852 F.3d 900, 907 (9th Cir. 2017)) (internal quotation marks omitted).

¹² 5 U.S.C. § 7101.

¹³ *Id.* § 7103(a)(2)(A).

¹⁴ *Id.* § 7103(a)(3).

¹⁵ *Id.* § 7103(a)(4).

¹⁶ *Cf. id.* § 7111(b) (permitting “any person” to file a petition with the Authority provided it raises a “question of representation” under the Statute).

¹⁷ Resp. to Authority Order at 1 (explaining that the pertinent individuals “fall outside traditional employment or bargaining-unit classifications”); 5 U.S.C. § 7103(a).

¹⁸ *Id.*; see *Graden v. Conexant Sys., Inc.*, 496 F.3d 291, 295 (3d Cir. 2007) (“We look first at the text of the statute and then, if ambiguous, to other indicia of congressional intent such as the legislative history.”).

¹⁹ Resp. to Authority Order at 1 (emphasis omitted); see *Cervantes-Ascencio v. U.S. INS*, 326 F.3d 83, 86 (2d Cir. 2003) (rejecting proposed statutory interpretation where court found “no ambiguity or other indication that Congress intended” the relevant statutory language “to mean other than what it plainly says”); see also *Burgess v. United States*, 553 U.S. 124, 135 (2008) (applying statutory term’s plain and unambiguous meaning where “Congress expressly defined the term” and such definition was “coherent, complete, and by all signs exclusive”).

²⁰ Resp. to Authority Order at 2.

²¹ *Id.*

²² 5 C.F.R. § 2427.5(f).

²³ See *Nat’l Right to Work Legal Def. Found., Inc.*, 71 FLRA 502, 502 (2019) (Member DuBester concurring) (denying request for policy statement where request “d[id] not satisfy the standards governing the issuance of general statements of policy and guidance set forth in § 2427.5 of the Authority’s Regulations”); *Decision on Request for Gen. Statement of Pol’y or Guidance*, 23 FLRA 342, 343 (1986) (finding policy-statement request did not satisfy § 2427.5(f) standard because its issuance “would not promote constructive and cooperative labor-management relationships or otherwise promote the purposes of the Statute”).

III. Order

We deny the Petitioner's request for a general statement of policy or guidance.