



Act (section 5110)- 29 USC 142(1) and 29 USC 152

SEC. 5110. DEFINITIONS.

- For purposes of the Act:
 - o (1) Employee.— The terms "employee" means an individual who is—
 - § (i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E) or (F), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (5)(A); or
 - § (ii) an employee of the Government Accountability Office;
 - § (B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16c(a));
 - § (C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;
 - § (D) a covered employee, as defined in section 411(c) of title 3, United States Code;
 - § (E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code; or
 - § (F) any other individual occupying a position in the civil service (as that term is defined in section 2101(1) of title 5, United States Code).
 - o (2) Employer.—
 - § (A) In general.— The term "employer" means a person who is—
 - § (I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);



§ (II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

§ (III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

§ (IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

§ (V) an Executive Agency as defined in section 105 of title 5, United States Code, and including the U.S. Postal Service and the Postal Regulatory Commission; and

§ (ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

§ (B) Covered employer.—

§ (i) In general.— In subparagraph (A)(i)(I), the term "covered employer"—

§ (I) means any person engaged in commerce or in any industry or activity affecting commerce that—

§ (aa) in the case of a private entity or individual, employs fewer than 500 employees; and

§ (bb) in the case of a public agency or any other entity that is not a private entity or individual, employs 1 or more employees;

§ (II) includes—

§ (aa) includes any person acting directly or indirectly in the interest of an employer in relation to an employee (within the meaning of such phrase in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)); and

§ (bb) any successor in interest of an employer;

§ (III) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and



§ (IV) includes the Government Accountability Office and the Library of Congress.

§ (ii) Public agency.— For purposes of clause (i)(IV), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

§ (iii) Definitions.— For purposes of this subparagraph:

§ (I) Commerce.— The terms "commerce" and "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act of 1947 (29 U.S.C. 142 (1) and (3)).

§ (II) Employee.— The term "employee" has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

§ (III) Person.— The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

§ 142. Definitions

When used in this Act—

(1) The term “industry affecting commerce” means any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or tend to burden or obstruct commerce or the free flow of commerce.

(2) The term “strike” includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slow-down or other concerted interruption of operations by employees.

(3) The terms “commerce,” “labor disputes,” “employer,” “employee,” “labor organization,” “representative,” “person,” and “supervisor” shall have the same meaning as when used in the National Labor Relations Act as amended by this Act [29 USCS §§ 151–158, 159–168].



§ 152. Definitions

When used in this Act [29 USCS §§ 151–158, 159–168]—

(1) The term “person” includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11 of the United States Code, or receivers.

(2) The term “employer” includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(3) The term “employee” shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined.

(4) The term “representatives” includes any individual or labor organization.

(5) The term “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.



(6) The term “commerce” means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(7) The term “affecting commerce” means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(8) The term “unfair labor practice” means any unfair labor practice listed in section 8 [29 USCS § 158].

(9) The term “labor dispute” includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) The term “National Labor Relations Board” means the National Labor Relations Board provided for in section 3 of this Act [29 USCS § 153].

(11) The term “supervisor” means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(12) The term “professional employee” means—

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution



of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(13) In determining whether any person is acting as an “agent” of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

(14) The term “health care institution” shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person.