

Full Committee Hearing Notice - "Teachers Union Scandals: Closing the Gaps in Union Member Protections"

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Witness:

Lary Yud

Deputy Director, Office of Labor-Management Standards

Employment Standards Administration

U.S. Department of Labor

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Testimony:

Mr. Chairman and Members of the Committee:

I am pleased to appear before the Committee today to discuss the Department of Labor's administration and enforcement of the Labor-Management Reporting and Disclosure Act (LMRDA), also known as the Landrum-Griffin Act.

I understand that the Committee is interested in particular in matters involving the Washington Teachers Union (WTU) and the United Teachers of Dade (UTD). As the Committee is aware, the Washington Teachers Union is the subject of an investigation under the auspices of the United States Attorney for the District of Columbia and the Office of Labor-Management Standards is actively involved in this investigation. In view of this pending investigation, it would be inappropriate for me to discuss specific issues concerning that case. At this time our agency is not involved in any investigation involving the United Teachers of Dade.

We all share the public's interest in the effective enforcement of the LMRDA, both as a general matter and in connection with the WTU case. I can assure you that the Department of Labor will assist the U.S. Attorney's Office in every possible way to see that all appropriate action is successfully undertaken.

Although I cannot discuss the current case involving the Washington Teachers Union, I can provide a general overview of the LMRDA, which is centered on two fundamental goals – promoting union democracy and ensuring union financial integrity.

The Office of Labor-Management Standards (OLMS) administers and enforces the provisions of the LMRDA that are within the jurisdiction of the Department of Labor. These include civil and criminal provisions that provide standards for union democracy and protect the financial integrity of labor organizations that represent private sector employees. OLMS also administers and enforces provisions of the Civil Service Reform Act of 1978 and the Foreign Service Act of 1980, which apply similar standards to federal sector unions.

The rights of union members and important union responsibilities are set forth in five Titles of the LMRDA.

Title I of the LMRDA creates a "bill of rights" for union members. Every union member has an equal right to nominate candidates for union office, to vote in union elections, and to attend and participate in union meetings. Title I provides that unions may impose assessments and raise dues only by democratic procedures, and contains safeguards against improper disciplinary action by unions. Title I also requires that every labor organization inform its members about the provisions of the LMRDA and establishes the

right of members and employees to copies of collective bargaining agreements. Title II of the LMRDA requires reports from unions, union officers and employees, employers, labor relations consultants, and surety companies. The Department of Labor has authority to enforce these reporting requirements and the LMRDA provides for the public disclosure of the reports. In addition, members have the right to examine union financial records, but only by demonstrating just cause. While the statute gives a union member the right to sue in federal court to enforce that right, neither records nor attorneys fees are available if the court does not agree that just cause has been demonstrated. Over the past year the Department has taken a number of important steps to improve administration of the LMRDA reporting requirements. In January 2002, OLMS began distributing to labor organizations a free CD-ROM containing a computer software program that they can use to electronically complete the annual financial reports they are required to file. Those reports can now be submitted over the Internet. In June 2002, OLMS began making these annual financial reports, and more recently the reports of employers and labor relations consultants, available for public disclosure on the Internet. All of these reports for the year 2000 and later can now be examined from any computer with access to the Internet and printed free of charge. Copies of earlier reports and of union constitutions and bylaws can be ordered from OLMS over the Internet. Since the activation of the Internet Disclosure site in June 2002, there have been a half million visits to the home page of the site. In December 2002, the Department published a Notice of Proposed Rulemaking to substantially revise the Form LM-2, the annual reporting form used by the largest unions, and to revise, although less significantly, the Forms, LM-3, and LM-4, which are used by smaller unions. Approximately 20 percent of all unions are required to file LM-2 reports. The new forms will provide union members, Congress, and other interested parties with more information about the financial activities of unions, including information about trusts operated for the benefit of the members. These reporting improvements will give union members information they need to engage in effective self-governance and the enhanced detail and disclosure will also discourage financial mismanagement and embezzlement. The Department is currently reviewing the comments received on its Notice of Proposed Rule Making. Finally, with respect to LMRDA reports, OLMS is in the process of implementing an electronic report auditing program. This program will electronically audit every labor organization annual financial report to ensure that certain minimum reporting standards are met. The program will highlight possible reporting deficiencies that the agency can deal with through a variety of means such as providing the filing union with an advisory letter, seeking an amended report, or taking other appropriate action. Title III of the LMRDA governs trusteeships imposed by a parent union over a subordinate body. Under Title III, a parent union may impose a trusteeship only for certain, legitimate purposes, for example, to correct financial malpractice or to assure the performance of a collective bargaining agreement. Title III is enforceable by the Department of Labor, on the written complaint of a union member. Title IV of the LMRDA governs the election of union officers. It requires that elections be held periodically -- at least every three years for local unions, at least every four years for intermediate bodies, and at least every five years for national and international unions. It also creates election-related rights and safeguards. For example, all members in good

standing have the right to vote and be candidates, subject only to reasonable rules uniformly imposed. Further, subject to certain time limits and a requirement to pursue internal remedies first, union members may file complaints with the Department protesting violations of any provision of Title IV. The Department must investigate such complaints, and take action to remedy material violations, within 60 days.

Finally, Title V of the LMRDA establishes financial safeguards for unions. It imposes fiduciary responsibilities on labor union officials. A union officer or employee who embezzles or otherwise misappropriates union funds or assets commits a federal crime that is punishable by fine or imprisonment. Title V establishes bonding requirements for union officers and employees, and prohibits persons convicted of certain crimes from holding union office or employment for up to 13 years after conviction or the end of imprisonment.

In the last five fiscal years (FY 1998 to FY 2002), OLMS has: conducted 752 election investigations and supervised 173 elections; completed 75 trusteeship cases; and conducted 1,994 criminal investigations, primarily involving the embezzlement of union assets and related reporting violations. During this period, the Department's investigative efforts resulted in 726 criminal indictments and 639 convictions, or approximately 11 convictions per month.

In addition to these enforcement activities, OLMS carries out an extensive program of compliance assistance, beginning with offers of assistance in understanding and complying with the law to all officers of newly formed unions. OLMS publishes a wide variety of compliance assistance materials, and every OLMS field office has an active program of compliance assistance seminars. Much of the focus of this assistance is on the statutory reporting requirements.

Unfortunately, because of a significant decline in staff resources, the agency has had to significantly curtail its discretionary program to audit local and national unions and focus on mandatory activities such as election investigations and criminal referrals. The agency implemented its Compliance Audit Program in the early 1980's following a recommendation by the General Accounting Office that was critical of the agency for not conducting sufficient on-site reviews directed to enforcement of the LMRDA. In response to the GAO's recommendation, OLMS designed a streamlined investigative audit program designed to detect civil and criminal violations. The audits have the additional advantage of providing direct hands-on compliance assistance to union officials and employees.

However, between FY 1990 and FY 2002, the agency's staff resources declined nearly 40 percent, leaving it with insufficient resources to manage an effective audit program.

Thus, for example, over the past five years, the OLMS Washington District Office, which is responsible for nearly 1,500 reporting unions in Maryland, the District of Columbia, and Virginia, has been able to conduct only an average of three audits a year. The agency's program to audit international unions has suffered a similar fate. The agency has been able to conduct on average only one audit a year of a national or international union over the past five years. Although the program is nearly 20 years old, ten of the twenty-five largest unions have never been audited by OLMS.

Both audits and investigations are often resource intensive. An audit of a large national union can require the equivalent of three to four staff years. Similarly, a large embezzlement case may require a number of investigators be devoted full-time to the

case for many months. At its FY 2002 authorized staffing level, OLMS had only 138 investigators located in 20 District Offices and 18 other sub offices (usually one or two person stations) spread throughout the country. After completing mandatory election casework and the most pressing embezzlement cases, these investigators have very little time to devote to audits designed to detect and deter other violations.

When OLMS is able to conduct an audit, our investigators and auditors perform a number of mandatory and optional steps designed to detect even well disguised misappropriations of funds. Records of banks and other financial institutions are obtained and other third-party checks are conducted to verify entries on union records. In the case of one large international union, an OLMS audit uncovered an embezzlement of over \$350,000 that for many years had gone undetected by the union's own auditor.

On a bright note, the President and Congress have begun to rectify this lack of effective oversight. In the recently enacted FY 2003 budget, OLMS was authorized to increase its staff. That increase will enable the agency to begin to build back its audit program, as well as to increase its compliance assistance activities designed to help union officers, employees, and members understand the law and take steps to place themselves into compliance.

Thank you for giving me the opportunity to discuss this important program. I would be pleased to answer your questions, subject only to the constraints by which the Department feels bound in light of the pending investigation.