



Federal Register

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Part III

Department of Labor

Office of Labor-Management Standards

**29 CFR Part 458
Standards of Conduct for Federal Sector
Labor Organizations; Proposed Rule**

DEPARTMENT OF LABOR**Office of Labor-Management Standards****29 CFR Part 458**

RIN 1215-AB48

Standards of Conduct for Federal Sector Labor Organizations

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Notice of Proposed Rulemaking; request for comments.

SUMMARY: The Department of Labor's Employment Standards Administration is proposing to revise the regulations applicable to federal sector labor organizations subject to the Civil Service Reform Act of 1978 (CSRA), the Foreign Service Act of 1980 (FSA), and the Congressional Accountability Act of 1995 (CAA). The purpose of this revision is to require labor organizations subject to the Acts to periodically inform members of their democratic rights as set forth in the standards of conduct provisions of the Acts and the implementing regulations. These rights include the right to participate in union affairs, freedom of speech and assembly, and the right to nominate candidates for office and run for office.

The Department invites comment on this Proposed Rule with respect to the benefits of these changes, the ease or difficulty with which labor organizations will be able to comply, and whether the notice that would be provided to union members would be meaningful, useful, and in accordance with the purposes of the CSRA, FSA, and CAA. Additionally, comments are invited to address several particular questions to better inform the Department about how to best craft a final rule that serves the interests of labor organizations subject to the rule, the members of such organizations, and the public.

DATES: Comments must be received on or before January 3, 2005.

ADDRESSES: You may submit comments, identified by RIN 1215-AB48, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Please follow the instructions for submitting comments.

E-mail: OLMS-REG-1215-AB48@dol.gov.

FAX: (202) 693-1340. To assure access to the FAX equipment, only comments of five or fewer pages will be accepted via FAX transmittal, unless arrangements are made prior to faxing,

by calling the number below and scheduling a time for FAX receipt by the Office of Labor-Management Standards.

Mail: Mailed comments should be sent to Lary Yud, Deputy Director, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-5605, Washington, DC 20210. Because the Department continues to experience delays in U.S. mail delivery due to the ongoing concerns involving toxic contamination, commenters should take this into consideration when preparing to meet the deadline for submitting comments.

It is recommended that you confirm receipt of your comment by calling (202) 693-0123 (this is not a toll-free number). Individuals with hearing impairments may call 1-800-877-8339 (TTY/TDD).

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-5605, Washington, DC 20210, olms-public@dol.gov, (202) 693-1233 (this is not a toll-free number). Individuals with hearing impairments may call 1-800-877-8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The preamble to the Proposed Rule is organized as follows:

- I. Background—provides a brief description of the development of the Proposed Rule.
- II. Authority—cites the legal authority supporting the Proposed Rule, Departmental redelegation authority and interagency coordination authority.
- III. Overview of the Rule—summarizes pertinent aspects of the regulatory text, and describes the purposes and application of that text.
- IV. Regulatory Procedure—sets forth the applicable regulatory requirements and requests comments on specific issues.

I. Background

On April 5, 2002, the Association for Union Democracy, which describes itself as a non-profit, non-partisan organization that seeks to promote democratic principles with the American labor movement and to educate workers concerning their legal rights, petitioned the Secretary of Labor to initiate a rulemaking proceeding. Stating that “[a]ll rights are meaningless if those who possess them are ignorant of them,” the letter urged the Secretary to require unions to inform their members of their democratic rights, by publishing the rights in newsletters,

Web sites, and as an appendix to their constitutions. On May 11, 2004, the Department convened a meeting of those individuals and organizations that would be affected by the Proposed Rule, including officers and members of labor organizations.

The proposed rulemaking amends the regulations for unions subject to the standards of conduct provisions of the Civil Service Reform Act of 1978, 5 U.S.C. 7120 (CSRA), the Foreign Service Act of 1980, 22 U.S.C. 4117(d) (FSA), and the Congressional Accountability Act of 1995, 2 U.S.C. 1351(a)(1) (CAA), to require such unions to inform members of the standards of conduct provisions found at 29 CFR Parts 457-459.¹ The CSRA standards of conduct regulations make certain provisions of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. 401, *et seq.* (LMRDA) applicable to federal sector labor organizations. The standards of conduct regulations incorporate Title I of the LMRDA (Bill of Rights of Members of Labor Organizations) virtually verbatim, *see* 29 CFR 458.2 (prescribing, among other requirements, equal rights of members, freedom of speech and assembly, safeguards against improper discipline, and the right to a copy of a collective bargaining agreement (for members and other employees affected by the agreement)), except for the important protection found in section 105 of the LMRDA, which states that “every labor organization shall inform its members concerning the provisions of this Act.” 29 U.S.C. 415. This proposed change revises the standards of conduct regulations to correct this omission by including this duty to notify members.

Labor organizations are free to devise their own notice language as long as it accurately states all union member democratic rights contained in the standards of conduct regulations. The Office of Labor-Management Standards (OLMS) will provide language that a labor organization may use if it so chooses. Labor organizations will be required to provide all new union members with a notice of their rights and, if they have a Web site, the option to post their own notice stating all such union member democratic rights or to create a hyperlink to Union Member Rights and Officer Responsibilities under the Civil Service Reform Act on the OLMS Web site. The organizations

¹ To avoid unnecessary repetition, this notice of proposed rulemaking will refer to the standards of conduct provisions of the Civil Service Reform Act, the Foreign Service Act, and the Congressional Accountability Act as the “CSRA standards of conduct.” See 5 U.S.C. 7120(d), 22 U.S.C. 4117(d), 2 U.S.C. 1351(a)(1).

will also be required to provide written notice to all members every three years either by enclosing a notice with the statutorily mandated notice of elections or by other methods the organization may choose. A labor organization may demonstrate compliance with these requirements by showing that another labor organization provided an appropriate notice to all the organization's members during the necessary time frame. OLMS will have the authority to initiate investigations and take enforcement action to remedy any violations of the regulation through existing administrative enforcement mechanisms.

Private litigation under the LMRDA has demonstrated that unions have a continuing obligation to inform members of their rights. In *Thomas v. International Ass'n. of Machinists*, 201 F.3d 517 (4th Cir. 2000), a labor organization took the position that a notice provided forty years ago, shortly after the passage of the LMRDA, satisfied its notice obligations under the LMRDA. The Court of Appeals rejected this position, stating that the democratic principles in the statute "are meaningless * * * if members do not know of their existence [because] if a member does not know of his rights, he cannot exercise them." *Machinists*, 201 F.3d at 520.

The reasoning set forth above in *Machinists*, an LMRDA case, applies with equal force to unions governed by the CSRA. Furnishing a notice of the CSRA standards of conduct provisions furthers the fundamental policies of federal labor law. Union members aware of these provisions are more likely to monitor their labor organization and act to remedy any breach in the integrity of that organization. Union members who are not informed or aware of their rights are less able, or even likely, to take such action.

The Proposed Rule has three specific parts. First, it would amend the regulations to require labor organizations representing federal employees to inform their members of the CSRA standards of conduct provisions and the regulations promulgated to carry out the purposes of the CSRA, 29 CFR 458.1 to 458.38. Second, the rule would provide options for these organizations to consider in devising their methodology for informing members. Finally, the rule would utilize the existing enforcement procedure that is currently used for violations of reporting and fiscal integrity requirements. See 29 CFR 458.50–458.53, 458.66–458.93. The Department invites comment on this Proposed Rule with respect to the

benefits of these changes, the ease or difficulty with which labor organizations will be able to comply, and whether the notice that would be provided to union members would be meaningful, useful, and in accordance with the purposes of the CSRA, FSA, and CAA. Additionally, comments are invited to address several particular questions to better inform the Department about how to best craft a final rule that serves the interests of labor organizations subject to the rule, the members of such organizations, and the public.

II. Legal Authority

A. Legal Authority

The legal authority for this notice of proposed rulemaking is the standards of conduct provisions of the CSRA, 29 U.S.C. 7120(d), 7134, and the FSA, 22 U.S.C. 4117. These provisions expressly authorize the Assistant Secretary to issue regulations implementing the standards of conduct that conform generally to the principles applicable to labor organizations in the private sector, that is, the LMRDA. Under the CAA, the Office of Compliance, U.S. Congress, has issued regulations, expressly approved by the House and Senate, providing that the Secretary is responsible for issuing decisions and orders on standards of conduct matters. See 142 Cong. Rec. S12062–01, S12074 (Oct. 1, 1996); 142 Cong. Rec. H10369–06, 10382 (Sept. 12, 1996). This Proposed Rule would add the provisions of LMRDA section 105 to the CSRA standards of conduct regulations.

As discussed above, the Fourth Circuit in *Thomas v. International Ass'n. of Machinists* held that labor organizations have a continuing obligation to inform members of their rights and the union's responsibilities. Although the court did not specify the nature of that continuing obligation, the Department has determined to specify the details of that obligation under the rulemaking authority of the Acts in order to avoid uncertainty and confusion.

Under the LMRDA, some provisions are enforced by members in private litigation while other provisions are enforced by the Department. Title I of the LMRDA, which includes section 105, is enforced by members only except for section 104 (Right to Copies of Collective Bargaining Agreements) which may be enforced by members or by the Department. Under the CSRA, the provisions of Title I of the LMRDA that have long been incorporated in the CSRA standards of conduct are enforced in administrative proceedings initiated

by a member filing a complaint with a district office, or any other office, of OLMS pursuant to 29 CFR 458.53–.54. If the OLMS District Director determines, after obtaining any additional information deemed necessary, that there is a reasonable basis for the complaint and there is no satisfactory offer of settlement, he or she will refer the matter for a hearing before an administrative law judge. 29 CFR 458.60. The Department has determined, however, that enforcement of this new provision of the standards of conduct regulations would be more effective if undertaken by OLMS acting on its own information, rather than relying on an individual to file a complaint with OLMS or to prosecute the action on his own. A union member who has not been informed of his rights as a union member cannot be expected to be knowledgeable about the role of OLMS in administering the CSRA standards of conduct, and cannot, therefore, be reasonably expected to file a complaint with OLMS in order to remedy the violation. Under these circumstances, the authority of OLMS to seek redress for a union's failure to inform members about their rights should not be made contingent upon the receipt of a complaint. Therefore, under the proposal, an OLMS District Director is authorized to conduct an investigation whenever it is necessary to determine whether any person has violated the duty imposed by this Proposed Rule. These enforcement procedures are similar to those currently in effect for provisions such as the labor organization reporting requirements, 29 CFR 458.3, and the fiscal integrity requirements, 29 CFR 458.31, which are initiated by notification to any appropriate person or labor organization as provided at 29 CFR 458.66(b).

B. Departmental Authorization

Secretary's Order No. 4–2001, issued May 24, 2001, and published in the **Federal Register** on May 31, 2001 (66 FR 29656), provides that the Assistant Secretary for Employment Standards has the responsibility and authority for implementing the standards of conduct provisions of the CSRA, the FSA, and the CAA as well as the standards of conduct regulations at 29 CFR parts 457–459.

III. Overview of the Rule

The Proposed Rule would amend the CSRA standards of conduct regulations to require labor organizations representing federal employees to inform their members of the CSRA standards of conduct provisions and the regulations promulgated to carry out the

purposes of the CSRA, 29 CFR 458.1 to 458.38. Labor organizations that represent both federal employees and non-federal employees (such as a national or local union that represents technicians employed by the Department of Defense and private contractors) are not subject to the CSRA standards of conduct. Such unions are directly covered by the LMRDA. An intermediate body, such as a conference, general committee, joint or system board, or joint council, which is subordinate to an LMRDA-covered national or international labor organization, is governed by the LMRDA even if the intermediate body has no dealings itself with private employers and no members who are employed in the private sector. See 68 FR 58383–84, 58473. Labor organizations subject to the CSRA standards may meet their duty to inform members about their union member rights by using language in the DOL publication *Union Member Rights and Officer Responsibilities under the Civil Service Reform Act* (available on the OLMS Web site at <http://www.olms.dol.gov>) or, alternatively, by devising their own language as long as it accurately states all CSRA standards of conduct provisions. A copy of the current version of *Union Member Rights and Officer Responsibilities under the Civil Service Reform Act* is appended to this proposal.

The notice is to be provided to individual members when they join the labor organization and to all members at least once every three years. The notice may be included with the required notice of local union officer elections or by another method so long as it is reasonably calculated to reach all members. The Proposed Rule further requires that if a labor organization has a Web site, its site must contain a hyperlink to *Union Member Rights and Officer Responsibilities under the Civil Service Reform Act* on the OLMS Web site at <http://www.olms.dol.gov>, or, alternatively provide the organization's own notice as long as the notice accurately states all of the CSRA standards of conduct provisions.

The Proposed Rule will be enforced by OLMS under the procedure currently established to remedy violations of certain substantive requirements of the standards of conduct provisions in the regulations. The existing regulations provide that OLMS may initiate an investigation and take enforcement action without a complaint to enforce, for example, labor organization reporting requirements, 29 CFR 458.3, and fiscal integrity and other financial safeguards requirements, 29 CFR

458.31–458.36. Such enforcement actions are not contingent on whether a union member has filed a complaint. Rather, whenever it appears to an OLMS District Director that a violation has occurred and not been remedied, the District Director shall notify any appropriate person or labor organization. If no settlement is reached, the District Director may file a complaint with the Department's Chief Administrative Law Judge, who will assign it to an administrative law judge (ALJ) and, in such instance, an OLMS District Director will be named as the complainant. 29 CFR 458.67. Following a hearing, the ALJ will issue a recommended decision and order, which is submitted to the Assistant Secretary for Employment Standards along with the record. The parties may file exceptions with the Assistant Secretary. The Assistant Secretary will then issue a decision and order. 29 CFR 458.69–91. If the Assistant Secretary orders remedial action and finds that it has not been effected, the matter is referred for appropriate action to the Federal Labor Relations Authority, or in CAA cases, the Board of Directors of the Office of Compliance. 29 CFR 458.92.

A union member who has not been informed of his rights as a union member cannot be expected to be knowledgeable about the role of OLMS in administering the CSRA standards of conduct. The union member cannot, therefore, be reasonably expected to file a complaint with OLMS in order to remedy the violation. Under these circumstances, the authority of OLMS to seek redress for a union's failure to inform members about their rights should not be made contingent upon the receipt of a complaint. Therefore, under the proposal, an OLMS District Director, consistent with 29 CFR 458.50, is authorized to conduct an investigation whenever the District Director believes it necessary to determine whether any person has violated the duty imposed by this Proposed Rule. And consistent with 29 CFR 458.66(b) and (c), an OLMS District Director is authorized to institute and participate in enforcement proceedings where a violation of this duty has not been remedied.

IV. Regulatory Procedures

Executive Order 12866

The Proposed Rule has been drafted and reviewed in accordance with Executive Order 12866. The Department has determined that this Proposed Rule is not an "economically significant" regulatory action under section 3(f)(1) of Executive Order 12866. Because compliance with the rule can be

achieved at low cost to covered labor organizations, the rule is not likely to: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues. As a result, the Department has concluded that a full economic impact and cost/benefit analysis is not required for the rule under section 6(a)(3) of the Order. Because of its importance to the public, however, the rule was treated as a significant regulatory action and was reviewed by the Office of Management and Budget.

The Proposed Rule would impose certain burdens associated with the requirement that labor organizations representing federal employees must inform their members of the CSRA standards of conduct provisions and the regulations promulgated to carry out the purposes of the CSRA, 29 CFR 458.1 to 458.38. According to the latest available Office of Personnel Management figures, as of January 1, 2001, there were 1,043,479 federal employees in bargaining units, and these units were represented by 2,199 local unions. Not all of these employees belong to a union, but that number can be used as the maximum theoretical number of members who must be informed of their rights. Since unions are free to add the rights notice to the mandatory election notice that locals by law must mail to their members every three years, the Department assumes that unions will take advantage of this cost-effective method of distributing the notice. Under such circumstances, the cost to unions would, at most, entail the cost of 1,043,479 photocopies of the notice, at \$.15 per page, resulting in a \$156,521 expenditure every three years, for annualized costs borne by all public sector unions of \$52,174. It is conceivable that the required notice will increase the weight of each piece of mail to the next highest ounce, thus resulting in a \$.23 fee for an extra ounce of first class postage for each envelope. This additional mailing cost would amount at most to \$240,000 every three years, for an annualized cost of \$80,000. Summing the maximum copying costs and the maximum additional postage

costs results in an additional \$396,521 expenditure every three years, and a maximum total annualized costs for all unions of \$132,174. Stated otherwise, the annualized cost to unions would be \$.13 per member. Intermediate and national labor organizations would not have to provide separate notice as, pursuant to proposed section 458.4(b), they could rely on mailings made by their subordinate locals. The approximately 2,199 local unions would be subject to an annualized average maximum cost of \$60.11. Finally, unions that maintain a Web site would be required to create a hyperlink to Union Member Rights and Officer Responsibilities under the Civil Service Reform Act or the union's own notice. The Department has no data on the number of unions that maintain a Web site. In addition to the 2,199 local unions, the Office of Personnel Management reports 80 national and international unions and associations that have, directly or through local units, exclusive recognition with departments and agencies of the Executive Branch. Thus it is theoretically possible that 2,279 unions would be required to create such a link. Assuming that the median annual salary of a webmaster is \$80,000 and the creation of a link would take 15 minutes, the one-time labor cost of this requirement would be \$22,790, or \$10 per union.

Prior to issuing this proposal, the Department sought the involvement of those individuals and organizations that will be affected by the Proposed Rule, including officers and members of labor organizations that would be subject to the rule.

Small Business Regulatory Enforcement Fairness Act

The Department has concluded that this Proposed Rule is not a "major" rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, *et seq.*). It will not likely result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 13132: Federalism

The Department has reviewed this Proposed Rule in accordance with

Executive Order 13132, regarding federalism, and has determined that the Rule does not have "federalism implications." The economic effects of the rule are not substantial, and it has no "direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Regulatory Flexibility Act

The Proposed Rule would not have a significant economic impact on a substantial number of small business entities. The Proposed Rule will have only an insignificant impact on any covered labor organization. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule has no substantial impact on any small business entity and, therefore, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include a Federal mandate that might result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than \$100 million in any one year.

Paperwork Reduction Act

The Proposed Rule would impose certain minimal burdens associated with informing members of their rights. As noted in proposed section 458.4, a labor organization may satisfy its obligation by either using language supplied by the Department or devising its own language as long as the notice accurately states all of the CSRA standards of conduct provisions. Under the regulations implementing the Paperwork Reduction Act, "[t]he public disclosure of information originally supplied by the Federal government to [a] recipient for the purpose of disclosure to the public" is not considered a "collection of information" under the Act. 5 CFR 1320.3(c)(2). Therefore, the notice is not subject to the Paperwork Reduction Act.

Executive Order 12988: Civil Justice Reform

This Proposed Rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The Proposed Rule has been written so as to minimize litigation and provide a clear legal standard for affected conduct, and has

been reviewed carefully to eliminate drafting errors and ambiguities. The proposal specifies clearly the effect of the rule on existing rules and the provisions affected.

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

The Department certifies that this Proposed Rule does not impose substantial direct compliance costs on Indian tribal governments.

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This Proposed Rule is not subject to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, because it does not interfere with private property rights protected under the Fifth Amendment of the Constitution.

Request for Comments

The Department invites comments about the NPRM from interested parties, including labor organizations, union members, public interest groups, and the public. In particular, the Department invites comments that address the following questions:

- Are all union member democratic rights stated with accuracy and clarity in the Department of Labor's publication Union Member Rights and Officer Responsibilities under the Civil Service Reform Act? If not, what specific changes to the language would improve its accuracy or clarity?
 - In what manner and frequency are members now apprised of their rights as union members?
 - To adequately apprise new members of their rights as union members is there an adequate alternative to requiring each union to provide a full written statement of rights to each individual at the time he or she joins the union?
 - To adequately apprise existing members of their rights as union members is there an adequate alternative to requiring each union to provide a full written statement of rights to each member within a reasonable time after the rule, if promulgated, takes effect? What would constitute a reasonable amount of time to allow unions to accomplish such notification?
 - To adequately apprise existing members of their rights as union members, is there an adequate alternative to requiring each union to provide a full written statement of rights to each member at periodic intervals?

- Would a union adequately apprise members of their rights as union members by providing such notice to members at three-year intervals, or should the intervals be of greater or lesser duration?

- Would the inclusion of a statement of members' rights in the union's required notice of nominations and election of officers be adequate alone to inform members about their rights?

- Where an intermediate or national labor organization holds its required elections every four or five years, would periodic notification at these intervals suffice?

- Would a posting, either permanent or periodic, at a union's offices and on agency bulletin boards to which the union has access by virtue of its status as bargaining representative adequately apprise members of their rights as union members?

- Would the purposes of the proposed rule be served in whole or in part by requiring the inclusion of a statement of members' rights as an appendix to the union's constitution or bylaws?

- Should the inclusion of a statement of members' rights as an appendix to the union's constitution or bylaws and proof that each member has received a copy of the constitution and appendix fully satisfy a labor organization's obligations, *i.e.*, provide a "safe harbor" for labor organizations?

- How are copies of union constitutions now made available to members, *e.g.*, as a handout or mailing at the inception of membership, upon request, by publication in the union's newsletter or Web site?

- Should notification by e-mail be considered an acceptable means of apprising union members of their rights where a member has provided an e-mail address to receive communications from the union or the union is permitted to utilize agency e-mail systems for similar communications with members?

- How prevalent is the use of Web sites, e-mail, or both, for intra-union communication by local, intermediate, and national units of unions

representing federal employees and their members?

- Should enforcement of violations of the Proposed Rule be vested in individual members or OLMS?

Clarity of this Regulation

Executive Order 12988 and the President's Memorandum of June 1, 1998, require each Federal agency to write all rules in plain language. The department invites comments on how to make this Proposed Rule easier to understand. For example:

—Have we organized the material to suit your needs?

—Are the requirements in the Rule clearly stated?

—Does the Rule contain technical language or jargon that is not clear?

—Would a different format (grouping and order of sections, use of headings, paragraphing) make the Rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the Rule easier to understand?

List of Subjects in 29 CFR Part 458

Administrative practice and procedure, Labor unions, Democratic rights of labor organization members, Reporting and Recordkeeping Requirements, Standards of conduct for labor organizations.

Text of Proposed Rule

Accordingly, the Department proposes to amend 29 CFR chapter IV by adding a new §458.4, as set forth below.

PART 458—STANDARDS OF CONDUCT

1. The authority citation of part 458 is revised to read as follows:

Authority: 5 U.S.C. 7105, 7111, 7120, 7134; 22 U.S.C. 4107, 4111, 4117; 2 U.S.C. 1351(a)(1); Secretary's Order No. 4–2001, 66 FR 29656, May 31, 2001.

2. A new § 458.4 is added directly following §458.3 to read as follows:

§ 458.4 Informing members of the standards of conduct provisions.

(a) Every labor organization subject to the requirements of the CSRA, the FSA, or the CAA shall inform its members concerning the standards of conduct provisions of the Acts and the regulations in this subchapter. Labor organizations shall provide such notice to members at the time they join and to all members at least once every three years. Such notice may be included with the required notice of local union elections or may be disseminated by other methods the organization may choose as long as it is reasonably calculated to reach all members.

(b) A labor organization may demonstrate compliance with the requirements of paragraph (a) of this section by showing that another labor organization provided an appropriate notice to all of its members during the necessary time frame.

(c) Labor organizations may use the language in the Department of Labor publication *Union Member Rights and Officer Responsibilities under the Civil Service Reform Act* (available on the OLMS Web site at <http://www.olms.dol.gov>) or may devise their own language as long as the notice accurately states all of the CSRA standards of conduct provisions.

(d) If a labor organization has a Web site, its site must contain a hyperlink to *Union Member Rights and Officer Responsibilities under the Civil Service Reform Act* or, alternatively, the labor organization's own notice as long as the notice accurately states all of the CSRA standards of conduct provisions.

Signed at Washington, DC, this 27th day of October, 2004.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

Note: The following attachment will not appear in the Code of Federal Regulations.

BILLING CODE 4510-CP-P



Union Member Rights and Officer Responsibilities under the Civil Service Reform Act

U.S. Department of Labor
Washington, DC 20210

Employment Standards Administration
Office of Labor-Management Standards

The standards of conduct provisions of the Civil Service Reform Act of 1978 (CSRA), among other statutes, guarantee certain rights to members of unions representing Federal employees and impose certain responsibilities on officers of these unions to ensure union democracy, financial integrity, and transparency. The Office of Labor-Management Standards (OLMS) is the Federal agency with primary authority to enforce many standards of conduct provisions. If you need additional information or suspect a violation of these rights or responsibilities, please contact OLMS at 1-866-4-USA-DOL. You should also refer to 29 CFR 457.1 – 459.5, and your union's constitution and bylaws for information on union procedures, timelines, and remedies.

Union Member Rights

Bill of Rights – Union members have:

- equal rights to participate in union activities
- freedom of speech and assembly
- voice in setting rates of dues, fees, and assessments
- protection of the right to sue
- safeguards against improper discipline

Collective Bargaining Agreements – Union members (and certain nonunion employees) have the right to receive or inspect copies of collective bargaining agreements.

Constitutions, Bylaws, and Reports – Unions are required to file an initial information report (Form LM-1), copies of constitutions and bylaws, and an annual financial report (Form LM-2/3/4) with OLMS. Unions must make these documents available to members and permit members to examine the records necessary to verify the financial reports for just cause. The documents are public information and copies of reports are available from OLMS and on the Internet at www.union-reports.dol.gov.

Union Officer Responsibilities

Financial Safeguards – Union officers have a duty to manage the funds and property of the union solely for the benefit of the union and its members in accordance with the union's constitution and bylaws. The union must provide accounting and financial controls necessary to assure fiscal integrity.

Prohibition of Conflicts of Interest – A union officer or employee may not (1) have any monetary or personal interest or (2) engage in any business or financial transaction that would conflict with his or her fiduciary obligation to the union.

Bonding – Union officers or employees who handle union funds or property must be bonded to provide protection against losses if their union has property and annual financial receipts that exceed \$5,000.

Labor Organization Reports – Union officers must:

- file an initial information report (Form LM-1) and annual financial reports (Forms LM-2/3/4) with OLMS.
- retain the records necessary to verify the reports for at least five years.

Officer Elections – Union members have the right to:

- nominate candidates for office
- run for office
- cast a secret ballot
- protest the conduct of an election

Officer Removal – Local union members have the right to an adequate procedure for the removal of an elected officer guilty of serious misconduct.

Trusteeships – A union may not be placed in trusteeship by a parent body except for those reasons specified in the standards of conduct regulations.

Protection for Exercising CSRA Rights – A union or any of its officials may not fine, expel, or otherwise discipline a member for exercising any CSRA right.

Prohibition Against Violence – No one may use or threaten to use force or violence to interfere with a union member in the exercise of his or her CSRA rights.

Officer Elections – Unions must:

- hold elections of officers of local unions by secret ballot at least every three years.
- conduct regular elections in accordance with their constitution and bylaws and preserve all records for one year.
- mail a notice of election to every member at least 15 days prior to the election.
- comply with a candidate's request to distribute campaign material.
- not use union funds or resources to promote any candidate (nor may employer funds or resources be used).
- permit candidates to have election observers.

Restrictions on Holding Office – A person convicted of certain crimes may not serve as a union officer, employee, or other representative of a union for up to 13 years.

Loans – A union may not have outstanding loans to any one officer or employee that in total exceed \$2,000 at any time.

<http://www.olms.dol.gov>

OLMS-Public@dol.gov

1-866-4-USA-DOL