



Prohibition against Certain Persons Holding Union Office or Employment

The Office of Labor-Management Standards, U.S. Department of Labor, is responsible for administering and enforcing most of the provisions of the Labor-Management Reporting and Disclosure Act (LMRDA). The LMRDA was enacted primarily to ensure basic standards of democracy and fiscal responsibility in labor organizations with private sector members.

Is it illegal for people who have been convicted of certain crimes to hold union office or employment?

- Yes. Section 504 of the LMRDA prohibits individuals convicted of certain crimes from holding union office or employment or serving in other prohibited capacities.

What union offices or positions can a convicted person not hold?

- Any officer or employee position such as president, vice-president, recording secretary, financial secretary, treasurer, director, trustee, executive board member, business agent, manager, organizer, or clerical employee.
- Any position as a representative in any capacity of a labor organization such as a job steward or shop committeeman.
- Any position, other than that of a member, involving decision-making authority concerning, or custody or control of, labor organization funds or assets.
- Consultant or adviser to a labor organization.

What other positions can a convicted person not hold?

- Labor relations consultant or adviser to an employer, employer organization, or labor organization.
- Any position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in a corporation or association.
- Officer, director, agent, or employee of any group or association of employers dealing with any labor organization.
- Any position where the occupant is entitled to a share of the proceeds of any entity whose activities are in whole or substantial part devoted to providing goods and services to a labor organization.
- Officer or executive or administrative employee of any entity whose activities are in whole or substantial part devoted to providing goods and services to a labor organization.

Are corporations and other convicted organizations barred from serving in prohibited capacities?

- Yes. Organizations convicted of the crimes described in Section 504 are disqualified from serving in prohibited capacities. For example, a convicted consulting firm would be barred from doing business with a labor organization.

What are the crimes that result in a person being barred?

- Conviction for several types of crimes will bar a person from serving in prohibited capacities:
 - Generic criminal offenses; specifically, murder, assault with intent to kill, assault that inflicts grievous bodily injury, rape, arson, extortion, burglary, grand larceny, robbery, bribery, embezzlement, or violation of narcotics laws;
 - Violations of Title II or Title III of the LMRDA, which include knowingly making a false statement of material fact or failing to disclose a material fact in any labor organization report, labor organization officer or employee report, or other report required by the LMRDA; willfully failing to file a required report; willfully violating the recordkeeping requirements in Title II or Title III; willfully making a false entry in labor organization records or other documents required to be kept by the LMRDA or willfully concealing, withholding or destroying such

- records; willfully and improperly transferring funds from a trustee local to the parent body imposing the trusteeship; or willfully counting the votes of delegates from a trustee local under certain circumstances;
- Any felony involving abuse or misuse of an individual’s position or employment in a labor organization or employee benefit plan in order to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan;
 - Conspiracy to commit any of the above crimes;
 - Attempting to commit any of the above crimes;
 - Any crime in which any of the above crimes is an element; or
 - Any crime that is equivalent to the above crimes; for example, obtaining money by false pretenses in certain cases can be equivalent to the listed crimes of grand larceny or embezzlement.

How does the bar apply to state convictions?

- If a person is convicted of a state crime covered by Section 504, the person will be subject to the Section 504 bar.

Is there a difference between a felony conviction and a misdemeanor conviction for purposes of the bar?

- No. With the exception of the residual felony offenses involving abuse or misuse of a person’s position or employment in a labor organization or employee benefit plan, anyone convicted of any of the crimes described in Section 504 is barred, regardless of whether the crime is classified as a felony or misdemeanor.

Is the bar automatic or must a court impose it?

- The bar applies automatically by operation of law. While a court may specifically impose an employment restriction as a condition of sentence, the court need take no action for the Section 504 bar to apply.

When does the bar start?

- For convictions after October 12, 1984, a person convicted of any of the above crimes is prohibited from holding office or serving in any other prohibited capacity beginning on the date of the judgment of conviction, regardless of whether the conviction is appealed.

What is a “judgment of conviction”?

- For purposes of Section 504, a judgment of conviction includes a finding or plea of guilty, or an equivalent procedure such as a plea of no contest to a disqualifying crime described in Section 504, and a sentence or other punitive disposition of the case by the trial court.

When does the bar end?

- Thirteen years after conviction or the end of imprisonment, whichever is later.

Can the sentencing court reduce the period of the bar?

- The federal or state sentencing court, on the motion of the convicted person, can set a shorter period of time, which cannot be less than three years following conviction or end of imprisonment, whichever is later.

Can the bar be removed?

- A barred person can seek to have the bar removed to permit service in a particular prohibited capacity by clearly demonstrating to the court that:
 - such person’s service in one of the prohibited positions would not be contrary to the purposes of the LMRDA; and
 - such person has been rehabilitated since commission of the disqualifying crime and can therefore be trusted not to endanger the organization in the position for which relief from the bar is sought.

What court hears the request to have the bar removed?

- The sentencing judge, if the person was convicted of a federal offense
- The United States District Court in the district in which the crime was committed, if the person was convicted of a state or local offense

What role does the Department of Labor have?

- The court must notify the Secretary of Labor and state, county, and federal prosecuting officials in the jurisdiction where the barred person was convicted before holding a hearing on the request to remove the bar.
- The Department of Labor will investigate and make a recommendation to the court on whether the bar should be removed.

Does the restoration of an individual's citizenship rights affect the bar?

- If an individual's citizenship rights were revoked as a result of the conviction and are *fully* restored in the jurisdiction of conviction and in a manner which demonstrates rehabilitation of the individual since the offense, the bar is ended. But, if no citizenship rights were revoked as a result of the disqualifying conviction, the barred person must seek relief by one of the other methods of relief described in Section 504.

What are citizenship rights for purposes of Section 504 relief?

- Citizenship rights that may be revoked and restored as the result of state criminal convictions generally include the rights of a state citizen in the jurisdiction of conviction to vote in public elections, to serve in public office, to sit on a jury, and to possess firearms. A federal convicted offender may have any revoked citizenship rights fully restored by obtaining a pardon from the President of the United States.

What if an individual successfully appeals an otherwise disqualifying conviction?

- The bar terminates if an appeal results in a reversal of the conviction.

Is parole considered part of imprisonment for purposes of determining the Section 504 bar period?

- No. The 13-year period begins on the day the convicted individual is released from imprisonment. Thus, if a person is paroled after serving two years of a four-year sentence, for example, the 13-year period begins upon his or her release from actual confinement in a jail-type facility.

What about probation?

- Similar to parole, if an individual convicted of a disqualifying offense receives a suspended sentence and is placed on probationary supervision without any confinement in a jail-type facility, the 13-year period begins on the date of conviction rather than at the end of the suspended sentence or probation.

What happens if a suspended sentence, parole or probation is revoked by the convicting court as a result of the convicted person's bad behavior?

- The 13-year period begins to run again from the end of any imprisonment that results from the revocation of the suspended sentence, parole, or probationary supervision.

Is it a violation if a person hires, retains, or employs a person subject to the bar?

- Yes. It is a violation both for a barred person to willfully hold a prohibited position and for another person to willfully and knowingly hire, retain, employ, or otherwise place the barred person in a prohibited capacity. For example, if an individual is a union officer at the time he or she is convicted of a disqualifying offense, the union must take steps to prevent the barred individual from serving in a prohibited capacity. Failure of the union's other officers to do so if they have knowledge of the barred individual's employment disqualification and service in a prohibited capacity is a violation of the LMRDA.

What happens to the salary of an individual subject to the 504 bar?

- If an individual is barred from elective office or other position for which any salary would be otherwise due if that individual were not barred by virtue of a disqualifying conviction and the individual has appealed the disqualifying conviction, any salary which would be otherwise due the individual is placed in an escrow account. The payment of the salary into the escrow account shall continue during the appeal or while the salary would be otherwise due, whichever is the shorter period. If the conviction is reversed, the amount in escrow is paid to the individual. If the conviction is affirmed, the money in escrow is returned to the payer. However, employment at will or by contract that may be terminated, and does not result in compensation that is otherwise due the convicted person, is not covered by the escrow provision of Section 504.

What is the punishment for a willful violation of LMRDA Section 504?

- The LMRDA makes a willful violation of any provision of Section 504 punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both. However, 18 U.S.C. 3571 increased the maximum fine to the greatest amount of the fine described in Section 504, twice the gross pecuniary gain which the defendant derived from the Section 504 offense, twice the gross pecuniary loss resulting from the Section 504 offense of a person other than the defendant, or \$250,000. In the case of a disqualified organization, a fine based on the greatest of the foregoing pecuniary gain or loss or \$500,000 may be imposed for a willful violation of Section 504.

Can a labor organization prevent an individual who is barred under Section 504 from running for union office?

- Yes. A union has the right to impose reasonable candidacy qualifications, which may include, or even exceed, the requirements of Section 504.

What should I do if I think someone is holding a position in violation of Section 504?

- Contact the nearest district office of the Department of Labor's Office of Labor-Management Standards (OLMS).

How can I obtain more information on Section 504 or the LMRDA in general?

- Additional information is available on the OLMS Web site at www.olms.dol.gov by sending a message to olms-public@dol.gov, by calling the DOL Help Line at **1-866-487-2365**, or by contacting an OLMS district office.

OLMS Field Offices

Staff is available to answer questions about the LMRDA at OLMS offices in the following cities:

Atlanta, GA	Dallas, TX	Indianapolis, IN	Nashville, TN	St. Louis, MO
Birmingham, AL	Denver, CO	Kansas City, MO	New Haven, CT	San Francisco, CA
Boston, MA	Detroit, MI	Las Vegas, NV	New Orleans, LA	Seattle, WA
Buffalo, NY	Grand Rapids, MI	Los Angeles, CA	New York, NY	Tampa, FL
Chicago, IL	Guaynabo, PR	Miami, FL	Newark, NJ	Washington, DC
Cincinnati, OH	Honolulu, HI	Milwaukee, WI	Philadelphia, PA	
Cleveland, OH	Houston, TX	Minneapolis, MN	Pittsburgh, PA	

For the address and telephone number of our field offices, please consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, or view our online organizational listing at <http://www.dol.gov/esa/contacts/olms/lmskeyp.htm>.