

set forth in 2 U.S.C. 1301 and 1351(a)(2). *Activity* means any facility, organizational entity, or geographical subdivision or combination thereof of any agency or employing office.

[62 FR 6093, Feb. 10, 1997]

**§ 457.12 Authority; Board.**

*Authority* means the Federal Labor Relations Authority as described in the CSRA, 5 U.S.C. 7104 and 7105. *Board*, when used in connection with the FSA, means the Foreign Service Labor Relations Board as described in the FSA, 22 U.S.C. 4106(a). "Board," when used in connection with the CAA, means the Board of Directors of the Office of Compliance as described in 2 U.S.C. 1301 and 1381(b).

[62 FR 6093, Feb. 10, 1997]

**§ 457.13 Assistant Secretary.**

*Assistant Secretary* means the Assistant Secretary of Labor for Employment Standards, head of the Employment Standards Administration.<sup>2</sup>

[62 FR 6093, Feb. 10, 1997]

**§ 457.14 Standards of conduct for labor organizations.**

*Standards of conduct for labor organizations* shall have the meaning as set forth in the CSRA, 5 U.S.C. 7120, and the FSA, 22 U.S.C. 4117, and as amplified in part 458 of this subchapter. The standards of conduct provisions of the CSRA and the regulations in this subchapter are applicable to labor organizations covered by the CAA pursuant to 2 U.S.C. 1351(a)(1).

[62 FR 6093, Feb 10, 1997]

**§ 457.15 District Director.**

*District Director* means the Director of a district office within the Office of Labor-Management Standards, Employment Standards Administration.

[63 FR 33780, June 19, 1998]

<sup>2</sup>Pursuant to Secretary of Labor's Order No. 5-96 (62 FR 107, January 2, 1997), the Assistant Secretary for Employment Standards has the responsibility and authority for implementing the standards of conduct provisions of the CSRA and the FSA.

**§ 457.16 Chief, DOE.**

*Chief, DOE* means the Chief of the Division of Enforcement within the Office of Labor-Management Standards, Employment Standards Administration.

[63 FR 33780, June 19, 1998]

**§ 457.17 Administrative Law Judge.**

*Administrative Law Judge* means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 5 U.S.C. 7120 or 22 U.S.C. 4117 as implemented by part 458 of this subchapter and such other matters as may be assigned.

**§ 457.18 Chief Administrative Law Judge.**

*Chief Administrative Law Judge* means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, DC 20210.

**§ 457.19 Party.**

*Party* means any person, employee, group of employees, labor organization, Department, activity or agency: (a) Filing a complaint, petition, request, or application; (b) named in a complaint, petition, request, or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

**§ 457.20 Intervenor.**

*Intervenor* means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

**PART 458—STANDARDS OF CONDUCT**

**Subpart A—Substantive Requirements Concerning Standards of Conduct**

Sec.

458.1 General.

458.2 Bill of rights of members of labor organizations.

458.3 Application of LMRDA labor organization reporting requirements.

TRUSTEESHIPS

- 458.26 Purposes for which a trusteeship may be established.
- 458.27 Prohibited acts relating to subordinate body under trusteeship.
- 458.28 Presumption of validity.

ELECTIONS

- 458.29 Election of officers.

ADDITIONAL PROVISIONS APPLICABLE

- 458.30 Removal of elected officers.
- 458.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.
- 458.32 Provision for accounting and financial controls.
- 458.33 Prohibition of conflicts of interest.
- 458.34 Loans to officers or employees.
- 458.35 Bonding requirements.
- 458.36 Prohibitions against certain persons holding office or employment.
- 458.37 Prohibition of certain discipline.
- 458.38 Deprivation of rights under the CSRA or FSA by violence or threat of violence.

**Subpart B—Proceedings for Enforcing Standards of Conduct**

- 458.50 Investigations.
- 458.51 Inspection of records and questioning.
- 458.52 Report of investigation.
- 458.53 Filing of complaints.

PROCEDURES INVOLVING BILL OF RIGHTS OR PROHIBITED DISCIPLINE

- 458.54 Complaints alleging violations of § 458.2, Bill of rights of members of labor organizations, or § 458.37, prohibition of certain discipline.
- 458.55 Content of complaint.
- 458.56 Service on respondent.
- 458.57 Additional information and report.
- 458.58 Dismissal of complaint.
- 458.59 Review of dismissal.
- 458.60 Actionable complaint.
- 458.61 Transfer and consolidation of cases.
- 458.62 Hearing procedures.

PROCEDURES INVOLVING ELECTION OF OFFICERS

- 458.63 Complaints alleging violations of § 458.29, election of officers.
- 458.64 Investigations; dismissal of complaint.
- 458.65 Procedures following actionable complaint.

OTHER ENFORCEMENT PROCEDURES

- 458.66 Procedures for institution of enforcement proceedings.
- 458.67 Standards complaint; initiation of proceedings.
- 458.68 Answer.

**Subpart C—Hearing and Related Matters**

- 458.69 Notice of hearing.
- 458.70 Administrative Law Judge.
- 458.71 Procedure upon admission of facts.
- 458.72 Motions and requests.
- 458.73 Prehearing conferences.
- 458.74 Conduct of hearing.
- 458.75 Intervention.
- 458.76 Duties and powers of the Administrative Law Judge.
- 458.77 Rights of parties.
- 458.78 Rules of evidence.
- 458.79 Burden of proof.
- 458.80 Unavailability of Administrative Law Judges.
- 458.81 Objection to conduct of hearing.
- 458.82 Motions after a hearing.
- 458.83 Waiver of objections.
- 458.84 Oral argument at the hearing.
- 458.85 Transcript.
- 458.86 Filing of brief.
- 458.87 Proposed findings and conclusions.
- 458.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.
- 458.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.
- 458.90 Briefs in support of exceptions.
- 458.91 Action by the Assistant Secretary.
- 458.92 Compliance with decisions and orders of the Assistant Secretary.
- 458.93 Stay of remedial action.

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. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 45 FR 15158, Mar. 7, 1980, unless otherwise noted. Redesignated at 50 FR 31311, Aug. 1, 1985.

**Subpart A—Substantive Requirements Concerning Standards of Conduct**

**§ 458.1 General.**

The term *LMRDA* means the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 *et seq.*). Unless otherwise provided in this part or in the CSRA or FSA, any term in any section of the LMRDA which is incorporated into this part by reference, and any term in this part which is also used in the LMRDA, shall have the meaning which that term has under the LMRDA, unless the context in which it is used indicates that such meaning is not applicable. In applying the standards contained in this subpart the Assistant Secretary will be guided

by the interpretations and policies followed by the Department of Labor in applying the provisions of the LMRDA and by applicable court decisions.

**§ 458.2 Bill of rights of members of labor organizations.**

(a)(1) *Equal rights.* Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) *Freedom of speech and assembly.* Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his views upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) *Dues, initiation fees, and assessments.* Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date this section is published shall not be increased, and no general or special assessment shall be levied upon such members, except:

(i) In the case of a local organization, (A) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (B) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(ii) In the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (A) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than 30 days written notice to the principal office of each local or constituent labor organization entitled to such notice, or (B) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (C) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided*, That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) *Protection of the right to sue.* No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceedings, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof.

(5) *Safeguards against improper disciplinary action.* No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined, except for nonpayment of dues by such organization or by any officer thereof unless such member has been (i) served with written specific charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization