

**Ofc. of Labor-Management Standards, Labor**

**§ 458.35**

months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for purposes allowable under §458.26. After the expiration of 18 months the trusteeship shall be presumed invalid in any such proceeding, unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under §458.26.

**§ 458.32 Provision for accounting and financial controls.**

Every labor organization shall provide accounting and financial controls necessary to assure the maintenance of fiscal integrity.

**§ 458.33 Prohibition of conflicts of interest.**

(a) No officer or agent of a labor organization shall, directly or indirectly through his spouse, minor child, or otherwise (1) have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to such labor organization, or (2) engage in any business or financial transaction which conflicts with his fiduciary obligation.

(b) Actions prohibited by paragraph (a) of this section include, but are not limited to, buying from, selling, or leasing directly or indirectly to, or otherwise dealing with the labor organization, its affiliates, subsidiaries, or trusts in which the labor organization is interested, or having an interest in a business any part of which consists of such dealings, except bona fide investments of the kind exempted from reporting under section 202(b) of the LMRDA. The receipt of salaries and reimbursed expenses for services actually performed or expenses actually incurred in carrying out the duties of the officer or agent is not prohibited.

**ELECTIONS**

**§ 458.29 Election of officers.**

Every labor organization subject to the CSRA or FSA shall conduct periodic elections of officers in a fair and democratic manner. All elections of officers shall be governed by the standards prescribed in sections 401 (a), (b), (c), (d), (e), (f) and (g) of the LMRDA to the extent that such standards are relevant to elections held pursuant to the provisions of 5 U.S.C. 7120 or 22 U.S.C. 4117 .

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated and amended at 50 FR 31311, 31312, Aug. 1, 1985]

**ADDITIONAL PROVISIONS APPLICABLE**

**§ 458.30 Removal of elected officers.**

When an elected officer of a local labor organization is charged with serious misconduct and the constitution and bylaws of such organization do not provide an adequate procedure meeting the standards of §417.2(b) of this chapter for removal of such officer, the labor organization shall follow a procedure which meets those standards.

[62 FR 6094, Feb. 10, 1997]

**§ 458.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.**

The standards of fiduciary responsibility prescribed in section 501(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof.

**§ 458.34 Loans to officers or employees.**

No labor organization shall directly or indirectly make any loan to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

**§ 458.35 Bonding requirements.**

Every officer, agent, shop steward, or other representative or employee of any labor organization subject to the CSRA or FSA (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded in accordance with the principles of section 502(a) of the LMRDA.

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In enforcing this requirement the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of section 502(a) of the LMRDA and by applicable court decisions.

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985]

### **§ 458.36 Prohibitions against certain persons holding office or employment.**

The prohibitions against holding office or employment in a labor organization contained in section 504(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof. The prohibitions shall also be applicable to any person who has been convicted of, or who has served any part of a prison term resulting from his conviction of, violating 18 U.S.C. 1001 by making a false statement in any report required to be filed pursuant to this subpart, or who has been determined by the Assistant Secretary after an appropriate proceeding pursuant to §§ 458.66 through 458.92 to have willfully violated § 458.27: *Provided, however,* That the Assistant Secretary or such other person as he may designate may exempt a person from the prohibition against holding office or employment or may reduce the period of the prohibition where he determines that it would not be contrary to the purposes of the CSRA or the FSA and this section to permit a person barred from holding office or employment to hold such office or employment.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, 31312, Aug. 1, 1985]

### **§ 458.37 Prohibition of certain discipline.**

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of the CSRA or FSA or this subchapter.

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### **§ 458.38 Deprivation of rights under the CSRA or FSA by violence or threat of violence.**

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall use, conspire to use, or threaten to use force or violence to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of the CSRA or FSA or of this subchapter.

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

### **§ 458.50 Investigations.**

(a) When he believes it necessary in order to determine whether any person has violated or is about to violate any provision of §§ 458.26 through 458.30, the Chief, DOE may cause an investigation to be conducted.

(b) When he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this part (other than §§ 458.2, 458.26 through 458.30 or 458.37), a District Director may conduct an investigation.

(c) The authority to investigate possible violations of this part (other than § 458.2 or 458.37) shall not be contingent upon receipt of a complaint.

[50 FR 31312, Aug. 1, 1985. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

### **§ 458.51 Inspection of records and questioning.**

In connection with such investigation the Chief, DOE or a District Director or his representative may inspect such records and question such persons as he may deem necessary to enable him to determine the relevant facts. Every labor organization, its officers, employees, agents, or representatives shall cooperate fully in any investigation and shall testify and produce the records or other documents requested in connection with the investigation.