

## SUBCHAPTER A—LABOR-MANAGEMENT STANDARDS

### PART 401—MEANING OF TERMS USED IN THIS SUBCHAPTER

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AUTHORITY: Secs. 3, 208, 301, 401, 402, 73 Stat. 520, 529, 530, 532, 534 (29 U.S.C. 402, 438, 461, 481, 482); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997; §401.4 also issued under sec. 320 of Title III of the Bankruptcy Reform Act of 1978, Pub. L. 95-598, 92 Stat. 2678.

SOURCE: 28 FR 14380, Dec. 27, 1963, unless otherwise noted.

#### §401.1 Commerce.

*Commerce* means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

#### §401.2 State.

*State* includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

#### §401.3 Industry affecting commerce.

*Industry affecting commerce* means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes

any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

#### §401.4 Person.

*Person* includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code, or receivers.

[45 FR 70445, Oct. 24, 1980, as amended at 59 FR 15115, Mar. 31, 1994]

#### §401.5 Employer.

*Employer* means any employer or any group or association of employers engaged in an industry affecting commerce (a) which is, with respect to employees engaged in an industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (b) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

#### §401.6 Employee.

*Employee* means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

#### §401.7 Labor dispute.

*Labor dispute* includes any controversy concerning terms, tenure, or

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conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

**§ 401.8 Trusteeship.**

*Trusteeship* means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

**§ 401.9 Labor organization.**

*Labor organization* means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

**§ 401.10 Labor organization engaged in an industry affecting commerce.**

A labor organization shall be deemed to be engaged in an industry affecting commerce if it:

(a) Is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(b) Although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(c) Has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within

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the meaning of paragraph (a) or (b) of this section; or

(d) Has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (a) or (b) of this section as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(e) Is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this section, other than a State or local central body.

**§ 401.11 Secret ballot.**

*Secret ballot* means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

**§ 401.12 Trust in which a labor organization is interested.**

*Trust in which a labor organization is interested* means a trust or other fund or organization (a) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (b) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

**§ 401.13 Labor relations consultant.**

*Labor relations consultant* means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

**§ 401.14 Officer.**

*Officer* means any constitutional officer, any person authorized to perform