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of such notice, the Board of Governors shall make the decision on the complaint. If no such request is made, the Administrative Governor, or the Staff Director for Management if he or she is delegated the authority to do so, shall make the decision on the complaint. The decision shall be made based on information in the investigative record and, if a hearing is held, on the hearing record. The decision shall be made within 60 days of the receipt by the EEO Programs Director of the notice of appeal and investigative record pursuant to paragraph (h)(1) of this section or 60 days following the end of the period for filing reply exceptions set forth in paragraph (j)(6) of this section, whichever is applicable. If the decision-maker under this paragraph (k) determines that additional information is needed from any party, the decision-maker shall request the information and provide the other party or parties an opportunity to respond to that information. The decision-maker shall have 60 days from receipt of the additional information to render the decision on the appeal. The decision-maker shall transmit the decision by letter to all parties. The decision shall set forth the findings, any remedial actions required, and the reasons for the decision. If the decision is based on a hearing record, the decision-maker shall consider the recommended decision of the administrative law judge and render a final decision based on the entire record. The decision-maker may also remand the hearing record to the administrative law judge for a fuller development of the record.

(2) The Board shall take any action required under the terms of the decision promptly. The decision-maker may require periodic compliance reports specifying:

(i) The manner in which compliance with the provisions of the decision has been achieved;

(ii) The reasons any action required by the final Board decision has not been taken; and

(iii) The steps being taken to ensure full compliance.

(3) The decision-maker may retain responsibility for resolving disputes that arise between parties over interpretation of the final Board decision, or for specific adjudicatory decisions arising out of implementation.

PART 269—POLICY ON LABOR RELATIONS FOR THE FEDERAL RESERVE BANKS

Sec.

269.1 Definition of a labor organization.
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269.4 Determination of appropriate bargaining unit.
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269.10 Time for internal labor organization business, consultations and negotiations.
269.11 Federal Reserve System Labor Relations Panel.
269.12 Amendment.

AUTHORITY: Sec. 11, 38 Stat. 261; 12 U.S.C. 248.

SOURCE: 48 FR 32331, July 15, 1983, unless otherwise noted.

§ 269.1 Definition of a labor organization.

When used in this part, the term *labor organization* means any lawful organization of any kind, or any employee representation group, which exists for the purpose, in whole or in part, of dealing with any Federal Reserve Bank concerning grievances, personnel policies and practices, or other matters affecting the working conditions of its employees, but the term shall not include any organization:

(a) Which asserts the right to strike against the government of the United States, the Board of Governors of the Federal Reserve System, or any Federal Reserve Bank, or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike; or

(b) Which fails to agree to refrain from seeking or accepting support from any organization which employs coercive tactics affecting any Federal Reserve Bank's operations; or

(c) Which advocates the overthrow of the constitutional form of the government of the United States; or

(d) Which discriminates with regard to the terms or conditions of membership because of race, color, sex, creed, age or national origin.

§ 269.2 Membership in a labor organization.

(a) Any employee of a Federal Reserve Bank (hereinafter referred to as ''Bank'') is free to join and assist any existing labor organization or to participate in the formation of a new labor organization, or to refrain from any such activities except that officers and their administrative or confidential assistants, managers and other supervisory personnel, secretaries to all such persons and all employees engaged in Bank personnel work shall not be represented by any labor organization.

(b) The rights described in paragraph (a) of this section for employees do not extend to participation in the management of a labor organization, or acting as a representative of any such organization, where such participation or activity would conflict with law or the duties of an employee.

(c) Notwithstanding anything stated in paragraph (a) of this section, professional employees of a Bank shall not be represented by a labor organization which represents other employees of the Bank unless a majority of the professional employees eligible to vote specifically elect to be represented by such labor organization. However, the professional employees of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

(d) Notwithstanding anything stated in paragraph (a) of this section, the guards of a Bank shall not be members of a labor organization which represents other categories of employees of the Bank. However, the guards of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

§ 269.3 Recognition of a labor organization and its relationship to a Federal Reserve Bank.

(a) Any labor organization shall be recognized as the exclusive bargaining representative of the employees in an appropriate unit of a Bank when that organization has been selected by the employees in said unit pursuant to the procedure set forth in § 269.5. A unit may be established in a Bank on any basis which will ensure a clear and identifiable community of interest among the employees concerned, and will promote effective relationships and the efficiency of the Bank's operations, but no unit shall be established solely on the basis of the extent to which a labor organization or employees in the proposed unit may have sought organization.

(b) When a labor organization has been recognized as the exclusive representative of employees in an appropriate unit, it shall be entitled to act for and to negotiate agreements in good faith covering all employees in the unit, and it shall be responsible for representing the interests of all such employees without discrimination and without regard to whether they are members of that labor organization or not, provided that nothing in this Policy shall prevent an employee from adjusting his or her grievance without the intervention of the recognized labor organization. The labor organization shall be given notice of the adjustment and a reasonable opportunity to object on the sole ground that it is in conflict with the terms of the collective bargaining agreement.

(c) A Bank, through appropriate officials, shall have the obligation to meet at reasonable times with representatives of a recognized labor organization to negotiate, in good faith, with respect to personnel policies and practices affecting working conditions for employees, provided that they do not involve matters in any of the following areas:

(1) The purposes and functions of the Bank; the compensation of and hours worked by employees; any classification system used to evaluate positions; the budget of the Bank; the retirement system; any insurance or other benefit plans; internal security operations;

maintenance of the efficiency of Bank operations including the determination of work methods; the right to contract out; the determination as to manpower requirements; use of technology and organization of work; and action to meet emergency situations;

(2) Management rights as to the direction of employees, including hiring, promotion, transfer, classification, assignment, layoffs, retention, suspension, demotion, discipline and discharge, provided that on matters involving the procedures to be followed by a Bank for the exercise of its rights under this subparagraph, a Bank shall, upon request, discuss such procedures with a recognized labor organization, but shall not be required to negotiate for an agreement as to them;

(3) All Bank matters specifically governed by applicable laws or regulations.

The obligation under this paragraph to negotiate with regard to certain matters shall include the execution of a written contract incorporating any agreement reached, but does not compel either a Bank or a labor organization to agree to a particular proposal or to make any concession during such negotiations.

(d) At the time it requests an election to be held, any labor organization seeking recognition shall submit to a Bank a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(e) Subject to the provisions of § 269.8, the exclusive recognition of a labor organization shall not preclude any employee, regardless of labor organization membership, from bringing matters of personal concern not governed by a collective bargaining agreement to the attention of appropriate officers, managers or supervisory personnel in accordance with applicable law, rule, regulation, or established Bank policy, or from choosing his or her own representative in such matters.

§ 269.4 Determination of appropriate bargaining unit.

(a) If a labor organization asserts in writing to a Bank that it holds cards requesting a representation election signed by at least thirty percent (30%) of the employees in a unit which that organization considers to be an appropriate bargaining unit, the labor organization and the Bank shall each designate a representative who together shall request the American Arbitration Association (hereinafter referred to as ''Association'') to submit to them from its National Panel of Professional Labor Arbitrators a list of seven (7) impartial, qualified professional arbitrators. The two designated representatives shall meet promptly and, by alternately striking names from the list, arrive at the remaining person who, together with the two representatives, shall constitute a Special Tribunal to rule on the labor organization's request for an election. The impartial arbitrator shall always act as the Chairperson of any Special Tribunal duly constituted under this section.

(b) In the absence of an agreement between the labor organization and the Bank on the appropriate unit, the Tribunal shall investigate the facts, hold hearings if necessary, and issue a decision as to the appropriateness of the unit for the purposes of conducting a representation election for exclusive recognition and as to related issues submitted for consideration. The expenses for this proceeding, including the fees of the association and of the arbitrator, shall be borne equally by the labor organization and the Bank. If either the Bank or the labor organization should disagree with the Special Tribunal's decision, the party in disagreement may appeal within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel referred to in § 269.11, and the decision of the System Panel shall be final and binding on the parties.

(c) If there is any dispute as to whether a labor organization holds cards signed by at least thirty percent (30%) of the employees in a unit claimed by a labor organization as appropriate or subsequently determined by the Special Tribunal as appropriate, the dispute shall be resolved by the Chairperson of the Special Tribunal, acting as a single impartial arbitrator. The expenses of such procedure, including the impartial arbitrator's fee, shall be borne equally by the labor organization and the Bank. The decision of the

Chairperson of the Special Tribunal shall be final and binding and shall not be subject to appeal to the Federal Reserve System Labor Relations Panel.

§ 269.5 Elections.

(a) Once there has been a final determination of the existence of an appropriate bargaining unit under the procedure in § 269.4, and a showing by a labor organization that it has cards signed by at least thirty percent (30%) of the employees in such unit requesting a representation election, an election shall be ordered by the Special Tribunal. A labor organization shall be recognized as the exclusive bargaining representative of the unit if it is selected by a majority of the employees in the unit actually voting.

(b) The election shall be held under the auspices of the Association and shall be subject to its election rules and regulations. However, if there should be any conflict between such rules and regulations and the provisions of this Policy, the latter shall prevail. The fees charged by the Association for its election service shall be borne equally by the labor organization and the Bank.

(c) An election to determine whether a labor organization should continue as the exclusive bargaining representative of a particular unit shall be held when requested by a petition or other bona fide showing by at least thirty percent (30%) of the employees of that unit. Any dispute as to whether thirty percent (30%) of the employees requested such an election shall be resolved by the same procedure as that set forth in § 269.4(b). The election shall be held under the auspices of the Association in the same manner described in paragraph (b) of this section. The recognition of a labor organization as the exclusive bargaining representative of a unit shall be revoked if a majority of the employees in the unit who actually vote signify approval of such revocation.

(d) Only one election may be held in any unit in a twelve (12) month period to determine whether a labor organization should become, or continue to be recognized as, the exclusive representative of the employees in that unit.

(e) Upon receipt of a request for an election from a labor organization under § 269.4(a), it shall be incumbent on the Bank, labor organization and all others to refrain from any conduct, action or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative consistent with the right of the Bank, labor organization or employees to exercise privileges of free speech in the expression of any views, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form.

(f) The Special Tribunal shall hear and decide any post-election objections of a Bank or labor organization filed with it claiming that a violation of paragraph (e) of this section has improperly affected the outcome of the election. Such objections must be filed with the Special Tribunal no later than five (5) business days after the date of election. In the event of such violation by a Bank, labor organization or other individuals or organizations which the Special Tribunal finds sufficient to have prejudiced the outcome of an election, appropriate remedial action shall be taken in the form of setting aside the election results and ordering a new election, provided, however, that an appeal from the order of the Special Tribunal may be taken within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel by either the affected Bank or labor organization. The ruling of the System Panel shall be final and binding. Neither the Special Tribunal nor the Federal Reserve System Labor Relations Panel shall have the authority to direct a Bank to recognize a labor organization as the exclusive collective bargaining representative without a valid election being held in which a majority of the employees actually voting have so designated such labor organization.

(g) The Special Tribunal and the Federal Reserve System Labor Relations Panel will adhere to any rules and regulations promulgated by the Board of Governors for the administration of the provisions of paragraphs (e) and (f) of this section.

§ 269.6 Unfair labor practices.

(a) It shall be an unfair labor practice for a Bank to: (1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) dominate or interfere with the formation or administration of any labor organization, or to contribute financial or other support to it; (3) encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; (4) refuse to bargain collectively with the representatives of its employees subject to the provisions of § 269.3 (b) and (c).

(b) It shall be an unfair labor practice for a labor organization, its agents or representatives to: (1) Restrain or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) cause or attempt to cause a Bank to Discriminate against an employee in violation of paragraph (a)(3) of this section; (3) refuse to bargain collectively with a Bank, provided the labor organization is the exclusive representative of a unit of employees.

(c) Notwithstanding anything previously stated in this section, the expression of any view, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, if such expression contains no threat of reprisal or force, or promise of benefit.

(d) The Federal Reserve System Labor Relations Panel will adhere to the rules and regulations promulgated by the Board of Governors for the prevention and remedy of the unfair labor practices listed herein.

§ 269.7 Approval of agreement and required contents.

Any agreement entered into with a labor organization as the exclusive representative of employees in a unit must be approved by the President of the Bank or a designated officer representative. All agreements with labor organizations shall also be subject to the requirement that the administration of all matters covered by the agreement shall be governed by the provisions of applicable laws and Federal Reserve System rules and regulations, and the agreement shall at all times be applied subject to such laws and regulations.

§ 269.8 Grievance procedures.

(a) Subject to the provisions of § 269.3(b), an agreement entered into with a labor organization as the exclusive representative of employees in a unit may contain a grievance procedure, applicable only to employees in such unit and which shall be the exclusive means for a labor organization and/or an employee to obtain resolution of a grievance arising under such agreement.

(b) Grievance procedures established by a labor agreement may also include provisions for arbitration of unresolved grievances by a tripartite panel under the Voluntary Labor Arbitration Rules of the Association with the impartial arbitrator selected by the Bank and labor organization representatives on the arbitration panel to be the Chairperson. In such event, arbitration shall extend only to grievances which involve the interpretation and application of specific provisions of a labor agreement and not to any other matters or to changes in or proposed changes in the agreement. Arbitration may only be invoked by labor organization on behalf of individual employees with their concurrence.

§ 269.9 Mediation of negotiation impasses.

In the event of an impasse in negotiations between the parties for a collective bargaining agreement, either the labor organization or the Bank may request the appointment of a qualified neutral person as a mediator to assist the parties in attempting to resolve the impasse. The parties will meet promptly with the mediator, and all matters discussed, as well as any documents submitted, shall not be publicly divulged for any reason. The cost of the mediator shall be borne equally by the parties.

§ 269.10 Time for internal labor organization business, consultations and negotiations.

Solicitation of memberships, dues or other internal labor organization business shall be conducted during the nonduty hours of the employees concerned. Officially requested or approved consultation between management executives and representatives of a labor organization shall, whenever practicable, be conducted on official time, but the President or a duly authorized officer of a Bank may require that negotiations with a labor organization be conducted during the nonduty hours of the Bank.

§ 269.11 Federal Reserve System Labor Relations Panel.

There shall be established a Federal Reserve System Labor Relations Panel, which shall consist of three members: one member of the Board of Governors of the Federal Reserve System, who shall be Chairperson of the Panel, and two public members. Each member shall be selected by the Board of Governors; provided, however, that the public members shall not have any present or past affiliation with the Federal Reserve System. Initially, one of the two public members shall be appointed for a term of two years, and the other for a term of three years. Thereafter, each public member shall be appointed for a term of three years, except that in the case of an unexpired term of a former member, the successor shall be appointed to fill such unexpired term. Upon the expiration of their term of office, public members may continue to serve until their successors are appointed and have qualified. A public member may be removed by the Board only upon notice and hearing, and only for neglect of duty or malfeasance in office. The Panel shall be responsible for the duties assigned to it as set forth in this Policy.

§ 269.12 Amendment.

This policy may be amended upon appropriate legal notice to all Federal Reserve Banks and labor organizations recognized, or seeking recognition, at any such Bank under this Policy. In no instance shall an amendment be applied retroactively.

PART 269a—DEFINITIONS

Sec.

269a.1 Party.
269a.2 Party in interest.
269a.3 Intervenor.
269a.4 Investigator.
269a.5 Hearing officer.

AUTHORITY: Sec. 11, 38 Stat. 261 (12 U.S.C. 248).

SOURCE: 35 FR 8919, June 10, 1970, unless otherwise noted. Redesignated at 48 FR 32334, July 15, 1983.

§ 269a.1 Party.

The term *Party* means any person, employee, group of employees, labor organization, or bank as defined in §269.2 of this chapter (a) filing a charge, petition, application, or rquest pursuant to these rules and regulations, (b) named as a party in a charge, complaint, petition, application, or request, or (c) whose intervention has been permitted or directed by the investigator, the hearing officer, or the panel, as the case may be, but nothing shall be construed to prevent the panel, or any officer designated by it, from limiting any party's participation in the proceedings to the extent of his interest as determined by the investigator, hearing officer, or panel.

§ 269a.2 Party in interest.

The term *party in interest* means any person, employee, group of employees, labor organization, or bank that will be or is directly affected by the resolution of any charge, complaint, petition, application, or request presented to or being considered by the panel or its designated officers. Any (a) labor organization (not a charging party nor a charged party) attempting to organize the employees of a bank or that is or was recently a party to a collective bargaining agreement with a bank named as a party in a charge, complaint, petition, application, or a request, or (b) bank (not a charging party nor a charged party) that acts as the employer of any person named in a charge, complaint, petition, or request shall be deemed to be also a party in interest and shall be entitled to notification and service of all relevant procedures and documents.