

SUBCHAPTER A—LABOR-MANAGEMENT STANDARDS

PART 400 [RESERVED]

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. 03-2012, 77 FR 69376, November 16, 2012; §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.

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§ 401.7 Labor dispute.

Labor dispute includes any controversy concerning terms, tenure, or 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 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

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the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

§ 401.15 Member or member in good standing.

Member or member in good standing, when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

§ 401.16 Secretary.

Secretary means the Secretary of Labor.

§ 401.17 Act.

Act means the Labor-Management Reporting and Disclosure Act of 1959.

§ 401.18 Office.

Office means the Office of Labor-Management Standards, United States Department of Labor.

[62 FR 6092, Feb. 10, 1997, as amended at 78 FR 8024, Feb. 5, 2013]

§ 401.19 Director.

“Director” means the Director of the Office of Labor-Management Standards, head of the Office of Labor-Management Standards.

[78 FR 8024, Feb. 5, 2013]

PART 402—LABOR ORGANIZATION INFORMATION REPORTS

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AUTHORITY: Secs. 201, 207, 208, 73 Stat. 524, 529 (29 U.S.C. 431, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

SOURCE: 28 FR 14381, Dec. 27, 1963, unless otherwise noted.

§ 402.1 Labor organization constitution and bylaws.

Every labor organization shall adopt a constitution and bylaws consistent with the provisions of the Act applicable thereto, within 90 days after the date the labor organization first becomes subject to the Act. This shall not, however, require the formal re-adoption by a labor organization of such a constitution and bylaws which it has previously adopted and under which it is operating when the report prescribed by § 402.2 is filed. As used in this part *constitution and bylaws* means the basic written rules governing the organization.

[28 FR 14381, Dec. 27, 1963, as amended at 40 FR 58856, Dec. 19, 1975]

§ 402.2 Labor organization initial information report.

Every labor organization shall file a report signed by its president and secretary or corresponding principal officers containing the information required to be filed by section 201(a) of the Act, and found necessary to be reported under section 208 thereof by the Secretary, on United States Department of Labor Form LM-1¹ entitled, “Labor Organization Information Report”. There shall be attached to such report and made a part thereof a copy of the constitution and bylaws adopted by the reporting labor organization.

[28 FR 14381, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985; 78 FR 8024, Feb. 5, 2013]

§ 402.3 Filing of initial reports.

(a) Every labor organization shall file with the Office of Labor-Management Standards the report and (subject to

¹ Filed as part of the original document.