

Union Officer Elections

A Complainant's Guide



The Labor-Management Reporting and Disclosure Act (LMRDA) establishes democratic standards for conducting regular elections of union officers and elections of delegates who elect officers. These standards require use of a secret ballot, reasonable opportunity to nominate candidates and vote, mailed notice of election, and other safeguards to ensure a fair election. The LMRDA also gives union members who believe that a violation of the election provisions of the LMRDA or of the union's constitution and bylaws has occurred the right to file a complaint with the Secretary of Labor. The Office of Labor-Management Standards (OLMS), an agency within the U.S. Department of Labor, is responsible for investigating these complaints and taking appropriate enforcement action, including supervising new elections, if warranted.

This pamphlet provides general information about the LMRDA requirements for filing a union officer election complaint with OLMS. The election must be your union's regular election of officers. Interim or special elections to fill vacancies are not covered by the LMRDA. For more information about the LMRDA and how to file an election complaint, you should contact the nearest OLMS field office.

Follow Union Protest Procedures First

The LMRDA requires that a member must first file an election protest with the union before filing a complaint with OLMS. The protest filed with the union must follow the procedures and time frames in the union's constitution and bylaws. Protest procedures differ from one union to the next but generally include requirements for filing the protest in writing, filing within a specified time period, and following specified steps in the protest and appeal process.

The requirement that a member must file a protest with the union before filing with OLMS gives the union a chance to look into the member's allegations and to correct any problems which may have occurred in the nomination and election process. Therefore, it is important that you review your union's current constitution and bylaws and follow the protest procedures carefully. Contact officials of your union for information and guidance about election protest procedures. Additionally, OLMS staff may be able to provide copies of your union's constitution

and bylaws and general guidance regarding the protest procedures for your union.

Failure to comply with your union's protest and appeals procedures may result in your complaint being dismissed.

Your internal union protest should include specific information concerning all the violations you know about and wish to protest, including

- violations of specific election standards in the LMRDA
- violations of your union's constitution and bylaws dealing with the election
- unreasonable applications of any union election rules, such as applying a candidate eligibility requirement to only some of the candidates

You should save a copy of your internal union protest and all material filed with it.

Failure to include issues in your internal union protest so they can be considered by the union may prevent OLMS from investigating those issues.

Filing a Complaint with OLMS

Who May File

Any member of a union subject to the LMRDA may file a complaint with OLMS alleging that the provisions of the LMRDA have been violated in a regular election of union officers. You must be a member as defined by the union's constitution and bylaws, both at the time the election was conducted and also when the complaint is filed with OLMS.

When to File

The LMRDA provides strict time limits that you must follow if you wish to file an election complaint with OLMS. The time limits for filing a complaint begin on either the date you began your internal union protest or the date that you received a final decision from your union. A decision is considered final if it cannot be appealed any further within the union. Time limits for filing complaints with OLMS are described below.

Unfavorable Final Decision - If you receive an unfavorable final decision (usually from the international or national union president, executive board, or convention), you may file a written complaint with OLMS which must be *received* by OLMS within one calendar month after the date you received the final decision from your union.

For example, if you received a final decision from the union on June 14, your written complaint to OLMS must be *received* on or before July 14 (within one calendar month after receiving the final decision). If you fail to file with OLMS within one calendar month after receiving a final decision, you lose the opportunity to file a complaint with OLMS.

No Final Decision - If you do not receive a final decision from the union after waiting three months from the date you filed your protest, you may file a complaint with OLMS which must be *received* by OLMS within one calendar month after the end of the three calendar months.

For example, if you first protest to the union on April 2 and file all required appeals, but do not receive a final decision from the union by July 2, you may file a written complaint with OLMS which must be *received* during the period July 3 through August 2 (within one calendar month after waiting three calendar months). If you miss this opportunity to file with OLMS, you must wait until you receive a final decision from the union and then file a complaint within one calendar month after receiving the final decision.

The LMRDA time limits for filing complaints with OLMS can be confusing; any questions should be directed to an OLMS field office.

What to File

Your complaint to OLMS must be in writing; OLMS does not have a standard complaint form. You may fax a copy of your complaint to OLMS, but you should also submit the original complaint. Your protest and appeals filed with the union and responses from the union should be referenced in your letter to OLMS and copies attached. It is unnecessary to repeat your allegations in the complaint to OLMS if all correspondence relating to your internal union protest is attached. The letter to OLMS should indicate whether you have received a final decision from the union and include your current address and telephone number.

Where to File

You should file your complaint with the nearest OLMS field office.

What to Expect after Filing with OLMS

Complainant Interview

If you have followed the provisions of your union's constitution and bylaws properly and filed a complaint with OLMS within the time frames described above, OLMS will open a case and contact you to schedule an in-person interview at the start of its investigation. The interview with an OLMS investigator will last approximately one to three hours. You will be asked to provide general information about the union and how the election was conducted and to explain the specifics of your complaint. During the interview, you should provide the OLMS investigator with clarifying information and supporting documents such as the names, addresses, and telephone numbers of persons who can provide additional information, as well as copies of notices, campaign literature, correspondence, newsletters, or any other items related to your complaint.

Investigation

As part of its investigation to resolve the allegations raised in your complaint, OLMS will

- determine if you have properly followed internal union protest procedures
- interview election officials, union officers and employees, members, and others
- review provisions of your union's constitution and bylaws and other union election rules
- review election records, as necessary, such as voter eligibility lists, notices, ballots, and tally sheets
- prepare a report of investigation presenting the investigative findings for each of your allegations

To resolve election challenges quickly and minimize government involvement in a union's affairs, OLMS is required by the LMRDA to complete its investigation within 60 days after the complaint was filed. However, in certain situations additional time is needed to resolve the allegations and OLMS may seek a time waiver from the union to

extend the statutory deadline. If a waiver is accepted, OLMS will notify you.

Case Disposition

The report of investigation is sent to the OLMS Division of Enforcement in Washington, D.C., for review and a decision as to what further action is appropriate. OLMS consults with the Office of the Solicitor of Labor during this process. For any LMRDA violations found, OLMS determines the number of votes which may have been affected and the possible impact on election results. For example, if five ballots were not properly counted but the winning candidate won the election by 25 votes, OLMS would find that a violation occurred but could not have affected the outcome of the election.

If OLMS determines that either no violation occurred or a violation occurred but did not affect the election outcome, no further action is necessary and OLMS closes the case. A "statement of reasons," explaining specifically why the case was closed, is sent to you, the local, and the national or international.

If the investigation reveals violations which may have affected the election outcome, OLMS will first seek to enter into an agreement with the union to obtain corrective action. If no voluntary compliance agreement is reached, OLMS may file suit to have a federal district court set aside the challenged election and order a new election under OLMS supervision. However, until a final decision is issued by the district court, the challenged election is presumed valid and the officers elected remain in office.

To safeguard your rights in filing an election protest, it is important that you understand and comply with your union's constitution and bylaws as well as the LMRDA requirements discussed in this publication.

Additional Information

Additional information is available on the OLMS Web site at www.olms.dol.gov by sending a message to olms-public@dol.gov, by calling the DOL Help Line at **1-866-487-2365**, or by contacting an OLMS field office.

OLMS Field Offices

Staff is available to answer questions about the LMRDA at OLMS offices in the following cities:

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| Atlanta, GA | Dallas, TX | Kansas City, MO | New Orleans, LA | San Francisco, CA |
| Birmingham, AL | Denver, CO | Los Angeles, CA | New York, NY | Seattle, WA |
| Boston, MA | Detroit, MI | Miami, FL | Newark, NJ | Tampa, FL |
| Buffalo, NY | Grand Rapids, MI | Milwaukee, WI | Philadelphia, PA | Washington, DC |
| Chicago, IL | Guaynabo, PR | Minneapolis, MN | Phoenix, AZ | |
| Cincinnati, OH | Honolulu, HI | Nashville, TN | Pittsburgh, PA | |
| Cleveland, OH | Houston, TX | New Haven, CT | St. Louis, MO | |

For the address and telephone number of our field offices, please consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, or view our online organizational listing at <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

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