Bill of Rights of Members of Federal Sector Unions: A Complainant's Guide

The Civil Service Reform Act of 1978 and the Foreign Service Act of 1980 establish standards of conduct to ensure basic standards of democracy and fiscal responsibility in unions representing federal employees. Several sections of the standards of conduct regulations establish a bill of rights for members of federal sector unions, including:

- equal rights to vote in union elections and participate in meetings (section 458.2(a)(1)),
- freedom of speech and assembly with other members (section 458.2(a)(2)),
- dues increases only after democratic procedures are followed (section 458.2(a)(3)),
- no union limitation on your right to bring action against your union in court or before a government agency (section 458.2(a)(4)),
- a full and fair hearing before disciplinary action is taken against you (section 458.2(a)(5)),
- a prohibition on disciplinary action against you for exercising your rights (section 458.37), and
- access to any collective bargaining agreement which your union negotiates (section 458.2(d)).

The Office of Labor-Management Standards (OLMS), an agency in the Employment Standards Administration of the U.S. Department of Labor, administers the standards of conduct requirements. OLMS also administers most provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). The LMRDA ensures basic standards of democracy and fiscal responsibility in unions which represent employees in the private sector. The regulations which implement the standards of conduct requirements are modeled after the LMRDA, and standards of conduct cases must follow the rulings made in LMRDA court decisions. For a copy of the standards of conduct regulations or the LMRDA, you should contact the nearest OLMS field office listed on page 4.

This pamphlet provides general information on filing a complaint alleging a violation of your rights and presenting your case to the Department of Labor.

Follow Union Protest Procedures First

The standards of conduct regulations state that a member may be required to invoke internal union remedies for up to four months before bringing an action against the union in court or before a government agency. If a member does not invoke internal union remedies, court decisions require the member to show a good reason for not first complaining to the union (for example, that filing a protest with your union would be futile).

Therefore, except in unusual situations, you should follow your union's protest and appeal procedures before filing a complaint with OLMS. By trying to resolve the matter with your union first, you may get a satisfactory solution quickly. Even if your union does not resolve your protest, you will be showing your good faith and developing the record needed to support your case.

If you have any questions about your union's protest and appeal procedures, contact your union for information. Save a copy of your internal union protest and all material filed with it.

Filing a Complaint with OLMS

Who May File

As a member of a federal sector union, you may file a complaint alleging that your union violated any of your rights set out in the bill of rights sections of the regulations. You must be a member of the union at the time your rights were allegedly violated. However, if you were expelled from your union and you allege that your expulsion violated your rights under the regulations, you may still file a complaint with OLMS.

Note: If the union that you allege violated your rights (whether a local union or a parent body) represents any private sector employees, your complaint is covered by the LMRDA rather than the standards of conduct regulations. In that situation, you must file suit in federal district court to enforce your LMRDA rights. OLMS cannot handle your complaint.

When to File

You should file your complaint with OLMS as soon as possible. However, as stated on page 1, you may be required to exhaust internal union remedies for up to four months before filing a complaint with OLMS. Although the regulations do not set a time limit for how long you can wait before filing a complaint with OLMS, you should file it as soon as possible after you receive a final decision from your union or after you have waited four months without receiving a final decision.

What to File

Your complaint to OLMS must be in writing and should include your name, address, and a daytime telephone number. You may fax a copy of your complaint to OLMS, but you should also submit the original complaint. OLMS does not have a standard complaint form.

Your written complaint to OLMS should:

- give the name of your union;
- identify the specific right(s) and the specific section(s) of the bill of rights regulations, as listed on page 1, which your union allegedly violated;
- describe clearly and concisely how you believe your union violated your right(s);
- describe your attempts to remedy the situation with your union (include copies of your internal union protest with attachments and any union response), or explain why you did not file a protest with your union;
- enclose any necessary additional documents which support your allegation; and
- describe what you want your union to do to remedy the alleged violation.

You must send your union a copy of the complaint you file with OLMS, with all attachments. In addition, you must give OLMS a written statement of when you sent the copy of the complaint to your union and how it was delivered (such as regular mail, certified mail, in person, etc.).

Where to File

You should file your complaint with the nearest OLMS field office listed on page 4.

Note: If you have any questions about filing a complaint, contact the nearest OLMS field office.

What to Expect After Filing a Complaint with OLMS

Initial Review and Determination

After receiving a bill of rights complaint, the Director of an OLMS District Office will obtain any necessary additional information, primarily from you (the complainant) and the union (the respondent), to determine if there is a reasonable basis for your complaint. The purpose for making this determination is to screen out complaints which either (1) are based on matters that are clearly not covered by the bill of rights sections of the regulations, or (2) have no reasonable basis in fact. *The District Director's responsibility is to gather facts impartially and make an objective decision. He or she does not determine the merits of your complaint, obtain evidence for your use in proving your case, or serve as your adviser.*

Case Disposition

District Director Finds No Reasonable Basis for Your Complaint - If the District Director finds that you have not established a reasonable basis for your complaint, he or she will inform you in writing of the reasons for dismissing your complaint and send a copy of that letter to your union. You may request a review within 15 days after the date of the dismissal letter by writing to the Assistant Secretary for Employment Standards. You must send a copy of your request for a review to your union and the District Director.

Your request for a review should contain a clear and concise statement of the reasons you believe the dismissal of your complaint should be reversed. Include copies of all necessary documents such as your original complaint and the District Director's letter dismissing your complaint. *The Assistant Secretary will ordinarily base this review only on the documents you provide with your request for a review.*

The Assistant Secretary will advise you in writing whether the decision is to (1) approve the District Director's dismissal of your complaint, (2) have the District Director refer the matter for a hearing before an administrative law judge, or (3) take other appropriate action, such as obtaining more information from you or your union. If the Assistant Secretary approves the District Director's dismissal of your complaint, no further appeal is available within the Department of Labor.

District Director Finds a Reasonable Basis for Your Complaint - If the District Director finds a reasonable basis for your complaint, he or she will refer it to the Chief Administrative Law Judge of the Department of Labor for a hearing. *At the hearing before an administrative law judge, you as the complainant have the burden of proving the union violated your rights under the bill of rights.* If you need documents or testimony to present your case, you may make a request to the administrative law judge. You may have an attorney or other representative at the hearing. OLMS does not have any role at the hearing or in providing evidence or testimony.

Within 15 days after the hearing, you and your union may file proposed findings and conclusions with the administrative law judge stating what you believe the administrative law judge should conclude. The administrative law judge will then issue a recommended decision and order. You and your union may file exceptions to the recommended decision and order with the Assistant Secretary for Employment Standards stating your disagreements with the administrative law judge's findings and conclusions. Your exceptions must be filed within 15 days after the date of the recommended decision and order, and should specifically and concisely identify the parts of the recommended decision and order which you object to and explain the reasons for your objection.

The Assistant Secretary will then issue a final decision and order. If the decision is that your union violated your rights, the Assistant Secretary will order the union to take appropriate action to remedy the violation. If the decision is that your union did not violate your rights, the Assistant Secretary will dismiss the case, and no further appeal is available within the Department of Labor.

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 district office.

OLMS Field Offices

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

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

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/esa/contacts/olms/lmskeyp.htm**.

OLMS

Office of Labor-Management Standards

U.S. Department of Labor

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Visit us at **www.olms.dol.gov**

E-mail us at **olms-public@dol.gov**

Call the DOL National Call Center at **1.866.487.2365**