

Ofc. of Labor-Management Standards, Labor

§ 458.59

This section shall be enforced in accordance with the procedures in §§ 458.66 through 458.92.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, 31312, Aug. 1, 1985; 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.52 Report of investigation.

The Chief, DOE may report to interested persons concerning any matter which he deems to be appropriate as a result of an investigation of possible violations of §§ 458.26 through 458.30. The District Director may report to interested persons concerning any matter which he deems to be appropriate as a result of an investigation of possible violations of any provision of this part (other than §§ 458.2, 458.26 through 458.30 and 458.37).

[50 FR 31312, Aug. 1, 1985. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.53 Filing of complaints.

A complaint alleging violations of this part may be filed with any district office, or any other office of the Office of Labor-Management Standards.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, 31313, Aug. 1, 1985; 63 FR 33780, June 19, 1998]

PROCEDURES INVOLVING BILL OF RIGHTS OR PROHIBITED DISCIPLINE

§ 458.54 Complaints alleging violations of § 458.2, Bill of rights of members of labor organization, or § 458.37, prohibition of certain discipline.

Any member of a labor organization whose rights under the provisions of § 458.2 or § 458.37 are alleged to have been infringed or violated, may file a complaint in accordance with § 458.53: *Provided, however,* That such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization.

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985]

§ 458.55 Content of complaint.

(a) The complaint shall contain appropriate identifying information and a clear and concise statement of the

facts constituting the alleged violation.

(b) The complainant shall submit with his complaint a statement setting forth the procedures, if any, invoked to remedy the alleged violation, including the dates when such procedures were invoked and copies of any written ruling or decision which he has received.

§ 458.56 Service on respondent.

Upon the filing of a complaint, a copy of the complaint shall be served upon the respondent, and a written statement of such service shall be furnished to the District Director.

[45 FR 15158, Mar. 7, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.57 Additional information and report.

Upon the filing of a complaint pursuant to §§ 458.54 through 458.56, the District Director shall obtain such additional information as he deems necessary, including the positions of the parties and any offers of settlement.

[45 FR 15158, Mar. 7, 1980. Redesignated and amended at 50 FR 31311, 31313, Aug. 1, 1985; 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.58 Dismissal of complaint.

If the District Director determines that a reasonable basis for the complaint has not been established, or that an offer of settlement satisfactory to the complainant has been made, he may dismiss the complaint. If he dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent.

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated and amended at 50 FR 31311, 31313, Aug. 1, 1985; 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.59 Review of dismissal.

The complainant may obtain a review of a dismissal by filing a request for review with the Assistant Secretary within fifteen (15) days of service of the notice of dismissal. A copy of such request shall be served on the District Director and the respondent, and a

§ 458.60

statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement of the facts and reasons upon which a request is based.

[45 FR 15158, Mar. 7, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.60 Actionable complaint.

If it appears to the District Director that there is a reasonable basis for the complaint, and that no offer of settlement satisfactory to the complainant has been made, he shall refer the matter to the Chief Administrative Law Judge, U.S. Department of Labor, for the issuance of a notice of hearing as set forth in § 458.69.

[45 FR 15158, Mar. 7, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.61 Transfer and consolidation of cases.

In any matter arising pursuant to the regulations in this subchapter, whenever it appears necessary in order to effectuate the purposes of the CSRA or FSA or to avoid unnecessary costs or delay, the District Director may consolidate cases within his own area or may transfer such cases to any other area, for the purpose of consolidation with any proceedings which may have been instituted in, or transferred to, such area.

[45 FR 15158, Mar. 7, 1980; 45 FR 28322, Apr. 29, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]

§ 458.62 Hearing procedures.

The proceedings following issuance of the notice of hearing shall be as provided in §§ 458.69 through 458.92 of this part.

PROCEDURES INVOLVING ELECTION OF OFFICERS

§ 458.63 Complaints alleging violations of § 458.29, election of officers.

(a) A member of a labor organization may file a complaint alleging violations of § 458.29 within 1 calendar month after he has (1) exhausted the remedies available under the constitution and bylaws of the labor organiza-

29 CFR Ch. IV (7-1-03 Edition)

tion and of any parent body, or (2) invoked such available remedies without obtaining a final decision within 3 calendar months of such invocation.

(b) The complaint shall contain a clear and concise statement of the facts constituting the alleged violation(s), the remedies which have been invoked under the constitution and bylaws of the labor organization and when such remedies were invoked.

(c) The complainant shall submit with his complaint a copy of any ruling or decision he has received in connection with the subject matter of his complaint.

§ 458.64 Investigations; dismissal of complaint.

(a) If it is determined after preliminary inquiry that a complaint is deficient in any of the following respects, the District Director shall conduct no investigation:

(1) The complainant is not a member of the labor organization which conducted the election being challenged;

(2) The labor organization is not subject to the CSRA or FSA;

(3) The election was not a regular periodic election of officers;

(4) The allegations, if true, do not constitute a violation or violations of § 458.29;

(5) The complainant has not complied with the requirements of § 458.63(a).

(b) If investigation discloses (1) that there has been no violation or (2) that a violation has occurred but could not have affected the outcome or (3) that a violation has occurred but has been remedied, the Chief, DOE shall issue a determination dismissing the complaint and stating the reasons for his action.

(c) A determination dismissing the complaint may be reviewed by the Assistant Secretary, but only on the basis of deciding whether the Chief, DOE's decision was arbitrary and capricious. The request for review must be made within fifteen (15) days after service of notice of dismissal.

[45 FR 15158, Mar. 7, 1980. Redesignated at 50 FR 31311, Aug. 1, 1985, as amended at 59 FR 15117, Mar. 31, 1994; 62 FR 6094, Feb. 10, 1997]