

Union Member Rights and Officer Responsibilities Under the LMRDA

The Labor-Management Reporting and Disclosure Act (LMRDA) guarantees certain rights to union members and imposes certain responsibilities on union officers. The Office of Labor-Management Standards (OLMS) enforces many LMRDA provisions while other provisions, such as the bill of rights, may only be enforced by union members through private suit in Federal court.

Union Member Rights

Bill of Rights – Union members have:

- Equal rights to participate in union activities;
- Freedom of speech and assembly;
- A voice in setting rates of dues, fees, and assessments;
- Protection of the right to sue;
- Safeguards against improper discipline.

Copies of Collective Bargaining Agreements – Union members and nonunion employees have the right to receive or inspect copies of collective bargaining agreements.

Reports – Unions are required to file an initial information report (Form LM-1), copies of constitutions and bylaws, and an annual financial report (Form LM-2/3/4) with OLMS. Unions must make the reports available to members and permit members to examine supporting records for just cause. The reports are public information and copies are available from OLMS.

Officer Elections – Union members have the right to:

- Nominate candidates for office;
- Run for office;
- Cast a secret ballot;
- Protest the conduct of an election.

Officer Removal – Local union members have the right to an adequate procedure for the removal of an elected officer guilty of serious misconduct.

Trusteeships – Unions may only be placed in trusteeship by a parent body for the reasons specified in the LMRDA.

Prohibition Against Certain Discipline – A union or any of its officials may not fine, expel or otherwise discipline a member for exercising any LMRDA right.

Prohibition Against Violence – No one may use or threaten to use force or violence to interfere with a union member in the exercise of LMRDA rights.

Union Officer Responsibilities

Financial Safeguards – Union officers have a duty to manage the funds and property of the union solely for the benefit of the union and its members in accordance with the union's constitution and bylaws. Union officers or employees who embezzle or steal union funds or other assets commit a Federal crime punishable by a fine and/or imprisonment.

Bonding – Union officers or employees who handle union funds or property must be bonded to provide protection against losses if their union has property and annual financial receipts which exceed \$5,000.

Labor Organization Reports – Union officers must:

- File an initial information report (Form LM-1) and annual financial reports (Forms LM-2/3/4) with OLMS.
- Retain the records necessary to verify the reports for at least five years.

Officer Reports – Union officers and employees must file reports concerning any loans and benefits received from, or certain financial interests in, employers whose employees their unions represent and businesses that deal with their unions.

Officer Elections – Unions must:

- Hold elections of officers of local unions by secret ballot at least every three years.
- Conduct regular elections in accordance with their constitution and bylaws and preserve all records for one year.
- Mail a notice of election to every member at least 15 days prior to the election.
- Comply with a candidate's request to distribute campaign material.
- Not use union funds or resources to promote any candidate (nor may employer funds or resources be used).
- Permit candidates to have election observers.
- Allow candidates to inspect the union's membership list once within 30 days prior to the election.

Restrictions on Holding Office – A person convicted of certain crimes may not serve as a union officer, employee, or other representative of a union for up to 13 years.

Loans – A union may not have outstanding loans to any one officer or employee that in total exceed \$2,000 at any time.

Fines – A union may not pay the fine of any officer or employee convicted of any willful violation of the LMRDA.

The above is only a summary of the LMRDA. Full text of the Act, which comprises Sections 401-531 of Title 29 of the United States Code, may be found in many public libraries, or by writing the U. S. Department of Labor, Office of Labor-Management Standards, 200 Constitution Ave., NW, Room N-5616, Washington, DC 20210, or on the internet at www.dol.gov.



Policy concerning fees objectors^{*}

Any person covered by a UTU, now SMART, union shop or an agency shop agreement in the United States who elects to be a non-member has the legal right to object to political and ideological expenditures not related to collective bargaining, contract administration, or other activities germane to collective bargaining. Each non-member who objects shall pay reduced fees. In the public sector, nonmembers can elect to pay their fair share of the costs of collective bargaining by paying the agency fees, or they have the right to pay no fees.

To the extent permitted by law, a non-member cannot participate in union elections as a voter or as a candidate; attend union meetings; serve as delegate to the convention or participate in the selection of such delegates; or participate in the process by which collective bargaining agreements are ratified.

2. Notification of objection procedures:

a. To be a nonmember fee objector and pay reduced fees, the objecting non-members shall provide notice of objection by notifying the President, Transportation Division of the objection by first-class mail postmarked during the month of September preceding the calendar year to which s/he objects, or within thirty (30) days after he/she first begins paying fees and receives notice of these procedures. The objection shall contain the objector's current home address. Once a non-member objects, the objection shall stand until revoked. Objections may only be made by individual employees. No petition objections will be honored.

b. A nonmember who is a public employee: To be a nonmember fee objector and pay no fees, the objecting non-member shall provide notice of objection by notifying the President, Transportation Division of the objection by first-class mail during the period agreed to in his/her Authorization for Fee Deduction form, if applicable. The objection shall contain the objector's current home address. Once a non-member objects, the objection shall stand until revoked. Objections may only be made by individual employees. No petition objections will be honored. Any new hire of a public employer who wishes to be a nonmember should not fill out an Authorization for Fee Deduction form. Anyone who believes they are having dues improperly deducted must notify the President Transportation Division in writing.

3. The following categories of expenditures are chargeable:

- All expenses concerning the negotiation of agreements, practices and working conditions;
- All expenses concerning the administration of agreements, practices and working conditions, including grievance handling, all activities related to arbitration, and discussion with employees in the craft or class (or bargaining unit) or employer representatives regarding working conditions, benefits and contract rights;
- Convention expenses and other union internal governance and management expenses;
- Social activities and union business meeting expenses;
- Publication expenses to the extent coverage is related to chargeable activities;
- Litigation expenses related to contract administration, collective bargaining rights, and internal governance;
- Expenses for legislative and administrative agency activities to effectuate collective bargaining agreements;
- All expenses for the education and training of officers and staff intended to prepare the participants to better perform chargeable activities;
- All strike fund expenditures and other costs of economic action, e.g., demonstrations, general strike activity, informational picketing, etc., that benefit members of the bargaining unit or craft formerly represented by UTU, now SMART.

4. SMART shall retain a certified public accountant to perform an independent audit of the records of the

Percentage of chargeable fees determined by analyst for calendar year 2022

Transportation Division[*]	77.7%
State Legislative Boards	
LO-005 California ¹	44.3%
LO-025 Michigan ²	85.2%
LO-028 Missouri ³	77.7%
LO-048 Texas ⁴	53.3%
LO-051 Virginia ⁵	60.8%
LO-054 Washington ⁶	57.6%
Unreviewed boards ⁷	0.0%

General Committees of Adjustment, including locals under jurisdiction

GO-851 CSX Transportation ⁸	100.0%
GO-898 Norfolk Southern ⁹	97.0%
Unreviewed committees ¹⁰	99.6%

^{*} Estimate; final ratio forthcoming.

¹ Estimate based on January-June 2022 monthly activity reports.

² Estimate based on 2022 monthly activity reports.

³ Estimate based on 2022 monthly activity reports.

⁴ Estimate based on 2022 monthly activity reports.

⁵ Estimate based on 2022 monthly activity reports.

⁶ Estimate based on January and February 2022 monthly activity reports.

⁷ Unreviewed state legislative boards will have a 0 percent chargeable percentage applied to new objectors.

⁸ Estimate based on 2022 monthly activity reports.

⁹ Estimate based on 2022 monthly activity reports.

¹⁰ Unreviewed general committees will have the historical average of chargeable percentages of audited general committees, which is 99.6 percent, applied to any new objectors.

Transportation Division and subordinate units maintained by the President, Transportation Division. The Transportation Division shall designate an analyst for the purpose of determining the percentage of expenditures that fall within the categories specified in Section 3. The amount of the expenditures that fall within Section 3 shall be the basis for calculating the reduced fees that must be paid by the objector. The analyst shall also give an opinion concerning the adequacy of the escrow amounts maintained pursuant to Section 17, and later will verify the existence and the amounts of money in any escrow accounts.

5. The analyst shall complete the report no later than August 31. This report shall include an analysis of the major categories of union expenses that are chargeable and non-chargeable.

6. Each person entitled to receive the analyst's report may challenge the validity of the calculations made by the analyst by filing an appeal with the President, Transportation Division. Such appeal must be made by sending a letter to the President, Transportation Division postmarked no later than thirty (30) days after issuance of the analyst's report.

7. After the close of the appeals period, the President, Transportation Division shall provide a list of appellants to the American Arbitration Association (AAA). All appeals shall be consolidated. The AAA shall appoint an arbitrator from a special panel maintained by the AAA for the purpose of these arbitrations. The AAA shall inform the President, Transportation Division and the appellant(s) of the arbitrator selected.

8. The arbitration shall commence by October 1 or as soon thereafter as the AAA can schedule the arbitration.

The arbitrator shall have control over all procedural matters affecting the arbitration in order to fulfill the need for an informed and expeditious arbitration.

9. Each party to the arbitration shall bear their own costs. The appellants shall have the option of paying a pro-rata portion of the arbitrator's fees and expenses. The balance of such fees and expenses shall be paid by the Transportation Division.

10. A court reporter shall make a transcript of all proceedings before the arbitrator. This transcript shall be the official record of the proceedings and may be purchased by the appellants. If appellants do not purchase a copy of the transcript, a copy shall be available for inspection at the Transportation Division during normal business hours.

11. Appellants may, at their expense, be represented by counsel or other representative of choice. Appellants need not appear at the hearing and shall be permitted to file written statements with the arbitrator instead of appearing. Such statement shall be filed no later than fifteen (15) days after the transcript becomes available, but in no case more than thirty (30) days after the hearing closes.

12. Fourteen (14) days prior to the start of the first hearing, appellants shall be provided with a list of all exhibits intended to be introduced at the hearing and a list of all witnesses intended to be called, except for exhibits and witnesses that may be introduced for rebuttal. On written request from an appellant, copies of exhibits (or in the case of voluminous exhibits, summaries thereof) shall be provided to them. Additionally, copies of exhibits shall be available for inspection and copying at the hearing.

13. The Transportation Division shall have the burden of establishing that the reduced fees set forth in the analyst's report are lawful.

14. If the arbitrator shall determine that more than one day of hearings is necessary, hearings shall be scheduled to continue from day to day until completed. The parties to the appeal shall have the right to file a brief within fifteen (15) days after the transcript of the hearing is available, but in no case more than thirty (30) days after the hearing closes. The arbitrator shall issue a decision within forty-five (45) days after the submission of post-hearing briefs or within such other reasonable period as is consistent with the rules established by the AAA.

15. The arbitrator shall give full consideration to the legal requirements limiting the amounts that objectors may be charged, and shall set forth in the decision the legal and arithmetic basis for such decision.

16. If an objector receiving an advance reduction wishes to continue the objection, he/she shall continue to pay the reduced fees that he/she is currently paying until the analyst issues the report. As soon as possible after the issuance of the analyst's report, he/she shall pay the amount of the reduced fees calculated by the analyst. Persons objecting for the first time shall be sent a copy of the report prepared by the analyst for the previous year and shall pay the reduced fees as soon as possible.

17. Each month thereafter for all objectors, an amount shall be put in an interest-bearing escrow account equal to 25 percent of the reduced monthly fees, or such other greater amount as the analyst may recommend. All objectors from the previous year shall be paid the amount of non-chargeable money that is in the escrow account as determined by the analyst's report as soon as practicable after its issuance. The appropriate unit of the Transportation Division shall not, however, take its portion of the monies in the escrow account until fifteen (15) days after the conclusion of the period within which an objector may appeal the report of the analyst, or upon the issuance of the decision of the arbitrator, whichever is later.

18. When the decision of the arbitrator is announced the monies remaining in the escrow account shall be distributed in accordance with the decision.

^{*} Updated policy published annually in the SMART Transportation Division News