

## § 405.7

part any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

### **§ 405.7 Relation of section 8(c) of the National Labor Relations Act, as amended, to the reporting requirements of § 405.2.**

While nothing contained in section 203 of the Act shall be construed as an amendment to, or modification of the rights protected by section 8(c) of the National Labor Relations Act, as amended, activities protected by such section of the said Act are not for that reason exempted from the reporting requirements of section 203(a) of the Labor-Management Reporting and Disclosure Act of 1959 and § 405.2, and, if otherwise subject to such reporting requirements, are required to be reported if they have been engaged in during the course of the reporting fiscal year. However, the information required to be reported in Question 8C of Form LM-10 does not include matters protected by section 8(c) of the National Labor Relations Act, as amended, because the definition in section 203(g) of the term "interfere with, restrain, or coerce", which is used in Question 8C does not cover such matters.

[42 FR 59070, Nov. 15, 1977]

### **§ 405.8 Personal responsibility of signatories of reports.**

Each individual required to sign a report under section 203(a) of the Act and under this part shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

### **§ 405.9 Maintenance and retention of records.**

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolu-

## 29 CFR Ch. IV (7-1-11 Edition)

tions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

### **§ 405.10 Publication of reports required by this part.**

Inspection and examination of any report or other document filed as required by this part, and the furnishing by the Office of Labor-Management Standards of copies thereof to any person requesting them, shall be governed by part 70 of this title.

[35 FR 2990, Feb. 13, 1970]

### **§ 405.11 OMB control number.**

The collecting of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1215-0188.

[59 FR 15116, Mar. 31, 1994, as amended at 63 FR 33779, June 19, 1998]

## **PART 406—REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS, CERTAIN AGREEMENTS WITH EMPLOYERS**

Sec.

- 406.1 Definitions.
- 406.2 Agreement and activities report.
- 406.3 Receipts and disbursements report.
- 406.4 Terminal report.
- 406.5 Persons excepted from filing reports.
- 406.6 Relation of section 8(c) of the National Labor Relations Act to this part.
- 406.7 Personal responsibility of signatories of reports.
- 406.8 Maintenance and retention of records.
- 406.9 Publication of reports required by this part.
- 406.10 OMB control number.

AUTHORITY: Secs. 203, 207, 208, 73 Stat. 526, 529 (29 U.S.C. 433, 437, 438); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14385, Dec. 27, 1963, unless otherwise noted.

### **§ 406.1 Definitions.**

As used in this part, the term:

(a) *Corresponding principal officers* means any person or persons performing or authorized to perform, principal executive functions corresponding to those of president and treasurer of any entity engaged in

whole or in part in the performance of the activities described in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959.

(b) *Fiscal year* means the calendar year or other period of 12 consecutive calendar months, on the basis of which financial accounts are kept by a person. Where a person designates a new fiscal year prior to the expiration of a previously established fiscal year period, the resultant period of less than 12 consecutive calendar months, and thereafter the newly established fiscal year, shall in that order constitute the fiscal years.

(c) *Undertake* means not only the performing of activities, but also the agreeing to perform them or to have them performed.

(d) *A direct or indirect party to an agreement or arrangement* includes persons who have secured the services of another or of others in connection with an agreement or arrangement of the type referred to in § 406.2 as well as persons who have undertaken activities at the behest of another or of others with knowledge or reason to believe that they are undertaken as a result of an agreement or arrangement between an employer and any other person, except bona fide regular officers, supervisors or employees of their employer to the extent to which they undertook to perform services as such bona fide regular officers, supervisors or employees of their employer.

[28 FR 14385, Dec. 27, 1963, as amended at 42 FR 59070, Nov. 15, 1977; 63 FR 33779, June 19, 1998]

#### § 406.2 Agreement and activities report.

(a) Every person who as a direct or indirect party to any agreement or arrangement with an employer undertakes, pursuant to such agreement or arrangement, any activities where an object thereof is, directly or indirectly, (1) to persuade employees to exercise or not to exercise, or to persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or, (2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor

dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; shall, as prescribed by the regulations in this part, file a report with the Office of Labor-Management Standards, and one copy thereof, on Form LM-20<sup>1</sup> entitled "Agreement and Activities Report (required of persons, including labor relations consultants and other individuals and organizations)" in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 30 days after entering into an agreement or arrangement of the type described in this section. If there is any change in the information reported (other than that required by Item C, 10, (c) of the Form), it must be filed in a report clearly marked "Amended Report" within 30 days of the change.

(b) The report shall be signed by the president and treasurer or corresponding principal officers of the reporting person. If the report is filed by an individual in his own behalf, it need only bear his signature.

[28 FR 14385, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

#### § 406.3 Receipts and disbursements report.

(a) Every person who, as a direct or indirect party to any agreement or arrangement, undertakes any activities of the type described in § 406.2 pursuant to such agreement or arrangement and who, as a result of such agreement or arrangement made or received any payment during his fiscal year, shall, as prescribed by the regulations in this part, file a report and one copy thereof, with the Office of Labor-Management Standards, on Form LM-21<sup>1</sup> entitled "Receipts and Disbursements Report (required of persons, including labor relations consultants, other individuals and organizations)", in the detail required by such form and the instructions accompanying such form and constituting a part thereof. The report shall be filed within 90 days after the end of such person's fiscal year during

<sup>1</sup> Filed as part of the original document.

#### § 406.4

#### 29 CFR Ch. IV (7-1-11 Edition)

which payments were made or received as a result of such an agreement or arrangement.

(b) The report shall be signed by the president and treasurer or corresponding principal officers of the reporting person. If the report is filed by an individual in his own behalf, it need only bear his signature.

[28 FR 14385, Dec. 27, 1963, as amended at 50 FR 31310, Aug. 1, 1985]

#### § 406.4 Terminal report.

(a) Every person required to file a report pursuant to the provisions of this part who during his fiscal year loses his identity as a reporting entity through merger, consolidation, dissolution, or otherwise shall within 30 days of the effective date thereof or of the effective date of this section, whichever is later, file a terminal report, and one copy thereof, with the Office of Labor-Management Standards, on Form LM-21 signed by the president and treasurer or corresponding principal officers immediately prior to the time of the person's loss of reporting identity (or by the person himself if he is an individual), together with a statement of the effective date of termination or loss of reporting identity, and if the latter, the name and mailing address of the entity into which the person reporting has been merged, consolidated or otherwise absorbed.

(b) For purposes of the report referred to in paragraph (a) of this section, the period covered thereby shall be the portion of the reporting person's fiscal year ending on the effective date of the termination or loss of identity.

[28 FR 14385, Dec. 27, 1963, as amended at 50 FR 31310, Aug. 1, 1985]

#### § 406.5 Persons exempted from filing reports.

Nothing contained in this part shall be construed to require:

(a) Any person to file a report under this part unless he was a direct or indirect party to an agreement or arrangement of the kind described in § 406.2;

(b) Any person to file a report covering the services of such person by reason of his (1) giving or agreeing to give advice to an employer; or (2) representing or agreeing to represent an

employer before any court, administrative agency, or tribunal of arbitration; or (3) engaging or agreeing to engage in collective bargaining on behalf of an employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder;

(c) Any regular officer, or employee of an employer to file a report in connection with services rendered as such regular officer, supervisor or employee to such employer;

(d) An attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this part any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

#### § 406.6 Relation of section 8(c) of the National Labor Relations Act to this part.

While nothing contained in section 203 of the Act shall be construed as an amendment to, or modification of the rights protected by, section 8(c) of the National Labor Relations Act, as amended (61 Stat. 142; 29 U.S.C. 158 (c)), activities protected by such section of the said Act are not for that reason exempted from the reporting requirements of this part and, if otherwise subject to such reporting requirements, are required to be reported. Consequently, information required to be included in Forms LM-20 and 21 must be reported regardless of whether that information relates to activities which are protected by section 8(c) of the National Labor Relations Act, as amended.

#### § 406.7 Personal responsibility of signatories of reports.

Each individual required to file a report under this part shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false.

#### § 406.8 Maintenance and retention of records.

Every person required to file any report under this part shall maintain

records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

**§ 406.9 Publication of reports required by this part.**

Inspection and examination of any report or other document filed as required by this part, and the furnishing by the Office of Labor-Management Standards of copies thereof to any person requesting them, shall be governed by part 70 of this title.

[35 FR 2990, Feb. 13, 1970]

**§ 406.10 OMB control number.**

The collecting of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1215-0188.

[59 FR 15116, Mar. 31, 1994 as amended at 63 FR 46888, Sept. 3, 1998]

**PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS**

Sec.

408.1 Definitions.

408.2 Initial trusteeship report.

408.3 Form of initial report.

408.4 Semiannual trusteeship report.

408.5 Annual financial report.

408.6 Amendments to the Labor Organization Information Report filed by or on behalf of the subordinate labor organization.

408.7 Terminal trusteeship financial report.

408.8 Terminal trusteeship information report.

408.9 Personal responsibility of signatories of reports.

408.10 Maintenance and retention of records.

408.11 Dissemination and verification of reports.

408.12 Publication of reports required by this part.

408.13 OMB control number.

AUTHORITY: Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 4-2001, 66 FR 29656, May 31, 2001.

SOURCE: 28 FR 14387, Dec. 27, 1963, unless otherwise noted.

**§ 408.1 Definitions.**

(a) *Corresponding principal officers* shall include any person or persons performing or authorized to perform principal executive functions corresponding to those of president and treasurer, of any labor organization which has assumed or imposed a trusteeship over a labor organization within the meaning of section 301(a) of the Labor-Management Reporting and Disclosure Act of 1959.

(b) *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.

(c) *Policy determining body* means any body which is convened by the parent labor organization or other labor organization which is composed of delegates from labor organizations and which formulates policy on such matters as wages, hours, or other conditions of employment or recommends or takes any action in the name of the participating labor organizations. Such a body includes, for example, a district council, area conference or joint board.

**§ 408.2 Initial trusteeship report.**

Every labor organization which has or assumes trusteeship over any subordinate labor organization shall file with the Office of Labor-Management Standards within 30 days after the imposition of any such trusteeship, a trusteeship report, pursuant to § 408.3, together with a true copy thereof, signed by its president and treasurer, or corresponding principal officers, as well as by the trustees of such subordinate labor organization.

[28 FR 14387, Dec. 27, 1963, as amended at 50 FR 31309, Aug. 1, 1985]

**§ 408.3 Form of initial report.**

On and after the effective date of this section, every labor organization required to file an initial report under