

### §417.3

perform the functions of president, vice-president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

(d) *Cause shown* means substantial evidence of serious misconduct.

(e) *Interested person* means any person or organization whose interests are or may be affected by a proceeding.

(f) *Court* means the district court of the United States in the district in which the labor organization in question maintains its principal office.

[29 FR 8264, July 1, 1964, as amended at 29 FR 8480, July 7, 1964; 29 FR 9537, July 14, 1964; 50 FR 31310, Aug. 1, 1985; 62 FR 6093, Feb. 10, 1997; 63 FR 33779, June 19, 1998]

## Subpart A—Procedures To Determine Adequacy of Constitution and Bylaws for Removal of Officers of Local Labor Organizations

### §417.3 Initiation of proceedings.

(a) Any member of a local labor organization who has reason to believe that:

(1) An elected officer(s) of such organization has been guilty of serious misconduct, and

(2) The constitution and bylaws of his organization do not provide an adequate procedure for the removal of such officer(s), may file with the Office of Labor-Management Standards a written application, which may be in the form of a letter, for initiation of proceedings under section 401(h) of the Act.

(b) An application filed under paragraph (a) of this section shall set forth the facts upon which it is based including a statement of the basis for the charge that an elected officer(s) is guilty of serious misconduct; and shall contain:

(1) Information identifying the labor organization and the officer or officers involved, and

(2) Any data such member desires the Office of Labor-Management Standards to consider in connection with his application.

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### §417.4 Pre-hearing conference.

(a) Upon receipt of an application filed under §417.3, the Chief, DOE shall cause an investigation to be conducted of the allegations contained therein, and if he finds probable cause to believe that the constitution and bylaws of the labor organization do not provide an adequate procedure for the removal of an elected officer(s) guilty of serious misconduct he shall:

(1) Advise the labor organization of his findings and

(2) Afford such labor organization the opportunity for a conference to be set not earlier than 10 days thereafter except where all interested persons elect to confer at an earlier time. Any such conference shall be conducted for the purpose of hearing the views of interested persons and attempting to achieve a settlement of the issue without formal proceedings.

(b)(1) If:

(i) The labor organization declines the opportunity to confer afforded under paragraph (a) of this section, and fails to undertake compliance with the provisions of section 401(h) of the Act, or if

(ii) After consideration of any views presented by the labor organization the Chief, DOE still finds probable cause to believe that the removal procedures are not adequate and if agreement for the adoption of adequate procedures for removal has not been achieved and the labor organization refuses to enter into a stipulation to comply with the provisions of section 401(h) of the Act, the Chief, DOE shall submit his findings and recommendations to the Assistant Secretary.

(2) Upon consideration of the Chief, DOE's recommendations, the Assistant Secretary may order a hearing to be conducted before an Administrative Law Judge duly assigned by him to receive evidence and arguments (i) on the applicability of section 401(h) of the Act to the labor organization involved, and (ii) on the question of whether its constitution and bylaws provide an adequate procedure for the removal of an elected union officer guilty of serious misconduct.

[29 FR 8264, July 1, 1964, as amended at 50 FR 31310, Aug. 1, 1985; 62 FR 6093, Feb. 10, 1997]