

supporters. To this end, the statute provides that adequate safeguards to insure a fair election shall be provided, and states certain specific safeguards. These safeguards apply not only to candidates for officer positions as defined in the Act but also to candidates for delegate posts, if the delegates are to nominate or elect officers.

§ 452.67 Distribution of campaign literature.

The Act imposes the duty on the union and its officers to comply with all reasonable requests of any candidate to distribute his campaign literature to the membership at his expense. When the organization or its officers authorize distribution of campaign literature on behalf of any candidate, similar distribution under the same conditions must be made for any other candidate, if he requests it. In order to avoid charges of disparity of treatment among candidates, it is advised that a union inform all candidates in advance of the conditions under which distribution will be made and promptly advise them of any change in those conditions.

§ 452.68 Distribution to less than full membership.

Although section 401(c) specifies distribution to "all members in good standing," a labor organization must also honor requests for distribution of literature to only a portion of the membership if such distribution is practicable. Each candidate may choose his own ways of campaigning for election according to his own ingenuity and resources. For example, some candidates for national or international union office may desire to limit distribution to delegates, but others may want to appeal directly to the membership or parts thereof in an effort to influence particular constituencies to choose delegates favorable to their candidacy.

§ 452.69 Expenses of campaign literature.

Each candidate must be treated equally with respect to the expense of such distribution. Thus, a union and its officers must honor a candidate's request for distribution where the can-

didate is willing and able to bear the expense of such distribution. However, should the candidate be unable to bear such expense, there is no requirement that the union distribute the literature of the candidate free of charge. In the event the union distributes any candidate's literature without charge, however, all other candidates are entitled to have their literature distributed on the same basis. Since labor organizations have an affirmative duty to comply with all reasonable requests of any candidate to distribute campaign literature (at the candidate's expense), a union rule refusing all such distributions would not be proper, even though applied in a nondiscriminatory fashion. In view of the fact that expenses of distribution are to be borne by the candidate a labor organization may not refuse to distribute campaign literature merely because it may have a small staff which cannot handle such distribution for all candidates. If this is the case, the organization may employ additional temporary staff or contract the job to a professional mailer and charge the expense incurred to the candidates for whom the service is being rendered. The organization may require candidates to tender in advance the estimated costs of distributing their literature, if such requirement is applied uniformly.

§ 452.70 Contents of literature.

The Act does not and unions may not regulate the contents of campaign literature which candidates may wish to have distributed by the union. This is left to the discretion of each candidate. The labor organization may not require that it be permitted to read a copy of the literature before it is sent out, nor may it censor the statements of the candidates in any way, even though the statement may include derogatory remarks about other candidates. Furthermore, a union's contention that mailing of certain campaign literature may constitute libel for which it may be sued has been held not to justify its refusal to distribute the literature,

§ 452.71

since the union is under a statutory duty to distribute the material.³⁷

§ 452.71 Inspection of membership lists.

(a) Each bona fide candidate for office has a right, once within 30 days prior to any election in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment. The right of inspection does not include the right to copy the list but does include the right to compare it with a personal list of members. It is the intent of the Act that such membership lists be made available for inspection at the candidates' option any time within the 30-day period. The list is not required to be maintained continuously and may be compiled immediately before each election. The form in which the list is to be maintained is not specified by the Act. Thus, a card index system may satisfy the requirements of the Act. The list may be organized alphabetically or geographically, or by local in a national or international labor organization.

(b) It is the duty of the labor organization and its officers to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members. Thus, if a union permits any candidate to use such lists in any way other than the right of inspection granted by the Act, it must inform all candidates of the availability of the list for that purpose and accord the same privilege to all candidates who request it. Such privileges may include permitting inspection of the list where members are not subject to a collective bargaining agreement requiring membership as a condition of employment, inspecting the list more than once, or copying the list.

[38 FR 18324, July 9, 1973, as amended at 50 FR 31311, Aug. 1, 1985]

³⁷ See *Philo v. Stellato*, (E.D. Mich. Civil No. 21244, May 24, 1961); *Ansley v. Fulco*, (Calif. Ct. of Appeal, First App. District, Div. Three, 1 Civil No. 29483, May 31, 1972).

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

§ 452.72 Period of inspection.

The Act specifies the maximum period during which the right of inspection of membership lists is to be granted. The opportunity to inspect the lists must be granted once during the 30-day period prior to the casting of ballots in the election. Thus, where a mail ballot system is employed under which ballots are returnable as soon as received by members, the right to inspect must be accorded within the 30-day period prior to the mailing of the ballots to members. It would be an unreasonable restriction to permit inspection of lists only after the ballots have been mailed or the balloting has commenced.

§ 452.73 Use of union funds.

In the interest of fair union elections, section 401(g) of the Act places two limitations upon the use of labor organization funds derived from dues, assessments, or similar levy. These limitations are:

(a) No such funds may be contributed or applied to promote the candidacy of any person in an election subject to title IV, either in an election within the organization expending the funds or in any other labor organization; and

(b) No such funds may be used for issuing statements involving candidates in the election.

This section is not intended to prohibit a union from assuming the cost of distributing to the membership on an equal basis campaign literature submitted to the union by the candidates pursuant to the rights granted by section 401(c), as previously discussed, nor does it prohibit the expenditure of such funds for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of the election.

§ 452.74 Expenditures permitted.

The Act does not prohibit impartial publication of election information. Thus, it would not be improper for a union to sponsor a debate at which all candidates for a particular office are afforded equal opportunity to express their views to the membership prior to an election. Similarly, a union may issue information sheets containing biographical data on all candidates so