



July 16, 2024



Dear [REDACTED],

I am writing in response to your February 6, 2024, letter requesting a review of the Office of Labor-Management Standards (OLMS) Washington District Office's dismissal of your complaint against the National Treasury Employees Union (NTEU). Your October 4, 2023, complaint alleged that the [REDACTED] and subsequent addendums you entered into with the NTEU violated the union member bill of rights of the Civil Service Reform Act (CSRA) Standards of Conduct provisions when it stripped away several of your membership rights.

The District Director of the OLMS Washington District Office made a formal determination in a letter dated January 31, 2024, to dismiss your October 4, 2023, complaint, on the basis that "it appears that when you entered into the [REDACTED] and the various addendums, you voluntarily agreed to give up your membership rights such as running for union office, voting in officer elections, and attending membership meetings."

Your request for review was made pursuant to 29 C.F.R. § 458.59 and was acknowledged in a letter dated March 4, 2024.<sup>1</sup> Having considered your request for review, as well as NTEU's response dated February 14, 2024, and your motion to supplement the record dated February 22, 2024, I reverse the decision of the District Director for the reasons explained below.

OLMS enforces certain provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, which promotes union democracy and financial integrity in private-sector unions. OLMS also enforces similar provisions applicable to federal-sector unions pursuant to the Standards of Conduct provisions of the CSRA and its implementing regulations, 29 C.F.R. Part 458. The CSRA requires that the regulations implementing the Standards of Conduct conform to the principles applicable to private-sector labor organizations. 5 U.S.C. § 7120(d); 29 C.F.R. § 458.1. Accordingly, in applying the standards of the CSRA union member bill of rights, OLMS is guided by the interpretations and policies of the analogous LMRDA provisions, including section 101 of the LMRDA, 29 U.S.C. § 411, as well as applicable court decisions. 29 C.F.R. § 458.1.

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<sup>1</sup> As OLMS Acting Deputy Director, I have reviewed this matter in place of OLMS Director Jeffrey Freund, who has recused himself from the matter due to a potential conflict.

Courts have consistently held that substantive rights under 29 U.S.C. § 411 cannot be waived.<sup>2</sup> Courts have also held that 29 U.S.C. § 411 generally protects rank-and-file union members, not union officers and employees.<sup>3</sup> These same principles developed under the LMRDA apply to the rights guaranteed by the CSRA union member bill of rights. Due to the uncertainty in application of these Title I principles to your specific circumstances, I find that there is a reasonable basis for your complaint.

Pursuant to 29 C.F.R. § 458.60, I reverse the decision of the District Director and refer this matter to the Department of Labor's Chief Administrative Law Judge for the issuance of a notice of hearing as set forth in 29 C.F.R. § 458.69.

Sincerely,



Brian A. Pifer  
Acting Deputy Director

Cc: OLMS Washington District Office

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<sup>2</sup> *E.g.*, *Landry v. Sabine Indep. Seamen's Ass'n*, 623 F.2d 347, 350 (5th Cir. 1980) (relying on “the general rule that rights under s 411 [of the LMRDA] cannot be waived”) (citing *Tincher v. Piasecki*, 520 F.2d 851, 855 (7th Cir. 1975); *Int'l Bhd. of Boilermakers v. Rafferty*, 348 F.2d 307 (9th Cir. 1965)); *see* Waiver of Title I Rights, 3 Employee and Union Member Guide to Labor Law § 12:74 (2024) (noting that “such [Title I] rights as free speech or the right to vote cannot be waived” but that “at least in some circumstances the procedural rights under Section 101(a)(5) of the [LMRDA] may be”).

<sup>3</sup> *See Finnegan v. Leu*, 456 U.S. 431, 437 (1982) (union employees may not assert violations of the LMRDA based upon adverse employment actions taken against them); *see also Brunt v. Serv. Employees Intern. Union*, 284 F.3d 715, 720 (7th Cir. 2002); *Vought v. Wisconsin Teamsters Jt. Council No. 39*, 558 F.3d 617, 622 (7th Cir. 2009) (union has authority to strip former employee of all membership rights incidental to employment).