



December 14, 2020

Submitted Electronically via <http://www.regulations.gov>

Andrew Davis  
Chief of the Division of Interpretations and Standards  
Office of Labor-Management Standards  
U.S. Department of Labor  
200 Constitution Avenue NW  
Room N-5609  
Washington, DC 20210

**Re: Proposed Rule: Labor Organization Annual Financial Reports: LM Form Revisions, RIN 1245-AA10**

Dear Mr. Davis:

The American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME or the “International Union”), submits the following comments in response to the proposed rule issued by the Office of Labor-Management Standards (OLMS) that would make various revisions to the Form LM-2 used by labor organizations to file annual financial reports required under Title II of the Labor-Management Reporting and Disclosure Act. 85 Fed. Reg. 64726 (October 13, 2020).

AFSCME is an international labor organization with 1.4 million members throughout the United States, most of whom are employed in the public sector. Over 3,000 local unions and councils affiliated with AFSCME serve as the representatives for these workers. Under AFSCME’s Constitution, councils and local unions are separate, autonomous labor organizations exercising independent judgment and control over their business affairs. Each has its own constitution; maintains its own offices and places of business; elects its officers and selects its own employees; establishes bank accounts and manages its own funds; and makes its own decisions and negotiates its own contracts.

AFSCME and its affiliated locals and councils favor meaningful disclosure of the union’s financial information to its membership, at all levels of the union. The AFSCME Constitution provides that “[m]embers shall have the right to a full and clear accounting of all union funds at all levels. Such accounting shall include, but not be limited to, periodic reports to the membership by the appropriate

**American Federation of State, County and Municipal Employees, AFL-CIO**

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fiscal officers and periodic audits by officers elected for that purpose or by independent auditors not otherwise connected with the union.” In addition, AFSCME has adopted and enforced a Financial Standards Code that establishes detailed rules for the handling of union funds, financial record keeping and reporting that are binding on all of AFSCME’s affiliated bodies.

While AFSCME favors meaningful disclosure, it opposes the overly burdensome and unnecessary changes that are set out in this proposed rule. AFSCME already submits a nearly 1,000-page LM-2 every year, and the proposed rule would increase the size of the filing by thousands of additional pages. The current filing is more than sufficient to fulfill the goals of the underlying LMRDA, and there is no need to expand the requested information on an even longer “long form” LM-2. AFSCME also opposes the proposed rule because it would shroud the representational activity that International Union staff carry out as a substantial part of their employment, despite the fact that “transparency” is a stated purpose of the proposed rule. 85 Fed. Reg. at 64726. Accordingly, there are many proposed changes in the filing requirements that AFSCME opposes. Many of those objectionable changes are discussed in the comments submitted by the AFL-CIO, which are incorporated herein by reference. Rather than repeat the points raised in the AFL-CIO’s submission, the purpose of these comments will be to highlight the needless additional burdens that would be placed on AFSCME, and the misleading and unclear presentation of AFSCME’s activity that would result on the form if the proposed rule were adopted.

### **I. The Proposed LM-2 “Long Form” would Add Thousands of Pages to the Already Thorough LM-2 Filings that Large Labor Organizations Such as AFSCME Submit Every Year**

AFSCME already submits a long LM-2 filing every year, with three of its past four filings exceeding 900 pages. But under the proposed rule, as a labor organization with annual receipts of more than \$8,000,000.00, AFSCME would be required to submit an even longer “long form” LM-2 (“LM-2 LF”). The proposed “long form” would add 12 new schedules to the LM-2, including a new Schedule 17 that would require the itemization of the per capita tax that the International Union receives from its affiliates. This unwieldy schedule alone would add thousands of pages to AFSCME’s annual filing. Such a voluminous submission would defeat a significant purpose of the LM-2 to begin with, because it would become so voluminous it would overwhelm a member attempting to understand her union’s finances.

The new Schedule 17 would require large unions such as AFSCME to itemize per capita tax payments from their affiliates that in the aggregate exceed \$5,000 for the year. Per capita tax payments from local unions as small as those with only 30 members could require itemization on the proposed LM-2 LF. For a union like AFSCME with thousands of affiliated locals and councils, this would add thousands of additional pages to an already nearly 1,000-page document. For the sake of comparison, in the current version of the LM-2 the Other Receipts schedule (Schedule 14) totaled about \$10,000,000 on AFSCME’s 2019 form, and that alone resulted in 96 pages of itemization. Per capita tax, on the other hand, totaled more than \$180,000,000 on AFSCME’s 2019 filing—that is almost 18 times the amount from Schedule 14. The itemization needed to meet this proposed requirement would likely double or even triple the size of AFSCME’s

filing, generating an overwhelmingly long document that would be more difficult for union members to review and understand.

The proposed rule would create 12 new schedules. AFSCME's systems are set up to comply with the existing LM-2 requirements. Compliance with the proposed rule would require significant changes to our computer programs and record-keeping systems, creating administrative and financial burdens for the International Union. To manage the reporting of this type and quantity of information, AFSCME would have to create new accounting systems, hire additional personnel and accountants, and make substantial modifications to our hardware and software computer systems. Moreover, these expenses would be incurred to change systems for which AFSCME already invested time and money to develop in order to comply with past, and long-settled LM-2 processes. Despite this, OLMS estimates that only five additional hours would be required for each new schedule; given that there are 12 new schedules in the proposed rule, OLMS projects 60 additional hours would be required. 85 Fed. Reg. at 64753-54. Based on information from the individuals who now prepare AFSCME's LM-2 forms, we assert that OLMS's time estimation is inaccurate and far short of the time burdens the new schedules would impose. Without a doubt, the proposed rule significantly underestimates the hours of work the new schedules would require.

## **II. The Proposed Forms Would Shroud a Large Amount of AFSCME's Representational Activity**

The current LM-2 includes percentages to show how much of each officer and employee's time was spent on work in five different functional categories during the reporting year. Those categories are: Representational Activities; Political Activities and Lobbying; Contributions, Gifts and Grants; General Overhead; and Union Administration. Schedules 11 and 12 of the current LM-2 list each officer and employee, along with the percentages of time (totaling 100 percent) in Line I that each officer or employee has spent doing work in each functional category. While retaining the entries for each officer and employee, the proposed rule would eliminate Line I from those sections, hardly reducing the length of the overall document at all while removing meaningful information about the money AFSCME spends on representational and other activity.

By eliminating those percentages, the proposed rule would leave the former Schedules 11 and 12 to report only a cursory amount that each employee and officer has received in salary and disbursements for the year. The proposed form would then use a mere two lines to report the total sums of all employee salaries and officer disbursements. This would completely obfuscate the amount of money AFSCME spends on representational activity because the form would no longer break out the portion of salaries and disbursements allocated to representational activity. That amount in 2019, for example, was more than \$19,000,000. The proposed forms would only report a total amount of salaries and disbursements paid during the year, without further detail. Yet the representational activity from employee salaries was the largest amount AFSCME spent on those activities in 2019, accounting for 58 percent of the total disbursements for that year. The proposed forms would shroud that portion entirely, presenting an imprecise picture of how much AFSCME spends on representational and other activities each year.

Moreover, AFSCME does not “buy” representational activity like a product off the shelf. Representation largely comes from the work that the International Union staff performs—through the assignments, campaigns, projects, and other efforts carried out each year. By removing the categorized percentages of officer and employee time, the proposed rule would create a confusing form that would misleadingly suggest the union’s only representational expenditures were those paid to other entities: payments to affiliates for organizing assistance, for example. In 2019 alone, the representational activity from employee salaries exceeded those expenses by approximately \$6,000,000.

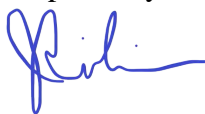
Ostensibly, the proposed rule is meant to provide “additional valuable information to union members,” “transparency,” and “useful data.” 85 Fed. Reg. at 64726 & 64729. But nowhere in the proposed rule does it state that any union members informed OLMS that the allocation of time by functional categories does not provide useful information. In fact, the proposed rule states that OLMS district directors were told only to hold a “30 minute brainstorming session” with their staff about whether changes made to the LM-2 in 2003 have proven beneficial. The percentages of staff time listed by functional category provide useful information. 85 Fed. Reg. at 64731. By requiring reporting of only the obtuse total annual amounts of salaries and allowances, the proposed rule would generate filings that largely obscure the substantial amount of money unions dedicate to representational activity. That representational work would no longer be apparent, depriving our membership of important information about how their dues are used.

#### **IV. Conclusion**

AFSCME favors meaningful disclosure of financial information to the International Union’s membership, and both requires and promotes the full and clear accounting of union funds at all levels within its own organization. But it opposes the overly burdensome and unnecessary changes set out in this proposed rule. AFSCME already submits a nearly 1,000-page LM-2 each year, the information on which is more than sufficient to fulfill the goals of the underlying LMRDA. The proposed rule would add thousands of pages to that filing, overwhelming anyone’s ability to read and understand the resulting document. The proposed rule would also shroud the largest portion of the money the International Union spends on representational activity through employee salaries, distorting the nature of the work that AFSCME carries out, rather than clarifying it.

In short, AFSCME opposes the proposed rule because it would add complexity to an already long form, and obscure rather than clarify information about the finances of large unions, like AFSCME. Your consideration of AFSCME’s comments is appreciated.

Respectfully submitted,



Judith Rivlin  
General Counsel, AFSCME