

December 14, 2020

Office of Labor-Management Standards
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210

Proposed Rule: Labor Organizations Annual Financial Reports: LM Forms Revisions

RIN: 1245-AA10

To the United States Department of Labor:

As a private citizen and formerly an employee of the State of Illinois, I was subject to and bound by the contract negotiations of the American Federation of State County and Municipal Employees (AFSCME). During my tenure as a non-member, I became frustrated with the lack of transparency afforded the rank and file of AFSCME.

The proposed rules expanding the reporting requirements of the LM-2 and LM-2 Long Form (LF) are a beginning to giving rank and file union members and non-members the information they need to adequately understand the union which represents them in the workplace. Transparency is a key element to ensure union dues are spent properly and accounted for. Transparency is the keystone to taming corruption, exposing unethical practices, and providing rank and file members the information they need to maintain a good working relationship with their union.

It is because of this lack of transparency and others, -that I filed a lawsuit in 2015, that worked its way through the courts all the way to the Supreme Court. Known as *Janus v. AFSCME (Docket: 16-1466)*, it provided the rank-and-file worker the right to decide for themselves what is best for that individual worker regarding union membership. The worker now has the ability to work for a government without union membership as a condition of employment.

An example of the lack of transparency that I encountered regarded "advertising". As a lump sum item did that "advertising" contain actual media or brochure advertising? T-shirts? Swag items? Or, did it also include funds (members' dues) spent on political "in kind" advertising for a candidate endorsed by the union? An expanded LM-2 LF would help to give transparency to this all-important line item. Separating advertising from political donations to candidates or PAC's would provide members a true picture of where the money is being spent.

After my case was decided the public sector unions complained of "free-riders". Government workers that benefitted from exclusive representation but did not contribute any "fees" or "dues" for this representation. An expanded LM-2 LF that breaks out the different categories of members helps all members understand the breakdown of memberships. What are the numbers of non-members, active members, retired, associate, etc. The public sector unions complain about the vast numbers of non-members they must represent, but what *IS* that number? Current LM-2 filing aggregate all member categories together. Without the breakdown by category of membership how much of a burden are the non-members compared to other membership categories? Are the claims of representing non-members accurate or false? Schedule 13 should include additional information to break down the various

membership categories to provide a true understanding of the membership categories however they are defined.

Expanding the clarity of financial line items is extremely important to provide not only the union membership but also the public and government a knowledge base of transparency that should be required. Private corporations provide this transparency on a regular basis via the SEC. Why shouldn't unions also? If a union is unwilling to provide the transparency an immediate red flag would be raised. What is the union hiding and why? If the union is "for the worker" as they so strongly claim, the ability to provide information as to the workings of the organization should be paramount. Is it not in the best interest of its membership to provide reasonable detail to its workings? The proposed rule would give that extra layer of transparency.

Let's look at a major source of "expenses" that unions provide in the current filings under existing rules. It is unknown how much of the spending is going to lobbying vs. political activities. While lobbying is important to the rank and file from the perspective of laws and regulations that may affect them directly, it is unknown what this amount actually is. One could also ask the question of how much is spent on political activities. What if a rank-and-file member doesn't support the union's endorsed candidate? How can the member understand how his/her dues money is being spent? At present, it cannot. A change to Schedule 16 to break out these amounts is in the best interest of the rank and file. Is the spending of funds truly supporting the member's best interest, or is it supporting an agenda the leadership dictates and may not be supported by the membership?

During my tenure with the State of Illinois, the public sector union that represented me, was contemplating a strike. However, there was no way of knowing if the union had a strike fund and whether there were adequate funds to cover all the potential striking participants. The union was asking for a potential sacrifice of wages and benefits, but it was unknown if a strike fund would help defer even a small portion of the potential lost wages and benefits. I also found it interesting the union leadership calling for the strike would continue to get fully paid but the striking members may or may not. Knowing if a strike fund exists and what potential funds would be available would certainly aid the rank and file in determining what is in *their* best interest. Full disclosure of a strike fund would aid in the transparency so desperately needed.

Schedule 15 should be split into two separate items: Administration/Organization and Contract Negotiations. At present, it is unknown the true amount of funds expended between the two. While I was a state employee my "agency fees" were allegedly going "mostly" to contract negotiations, or so I was told. But I could never obtain that information, and my requests always fell on deaf ears. The union always claimed member dues were primarily going to negotiating contracts, but how much? How much are administrative costs? The rank and file should have this information to evaluate the actual value of contract negotiations. How much of a person's due's dollar is being spent and where? Unless a change is made it is unknown. How can there be transparency if it is an unknown amount?

Under the proposed rule only a fraction of the reporting unions will file a long form. The threshold must be lowered below the \$8 million in annual receipts. Presently, less than 9% of unions will file the long form. What about the other 91%? Do the members of the 91% deserve any less transparency than the 9%? If transparency is the sought-after goal why not lower the threshold to below \$8 million? I do not think members that belong to smaller unions deserve any less information than larger ones.

There will be detractors advising there is extra burden to the proposed rules. However, with today's accounting software the argument is actually moot. If a multi-million-dollar enterprise such as a union cannot keep records of its spending in a detailed manner, it has no business making accusations against the entity it negotiates with, asking for and requiring transparency. Union records must be open, detailed, and available to all members.

Therefore, I support the proposed rule changes and additional changes as stated above.

/S/ Mark Janus
802 S. Second Street
Springfield, IL 62704