

organizing campaign when there is an incumbent exclusive representative, unless the outside organization has achieved equivalent status with the recognized labor organization by having either filed a petition or intervened in a representation proceeding. With respect to the use of its premises by labor organizations which have achieved equivalent status, an agency should not alter its policies or practices during a challenge to the status of the incumbent union.

(b) Rights of Incumbent Labor Organizations

The exclusive representative's existing rights regarding use of bulletin boards and use of shop stewards should be continued during the campaign and electioneering period. The fact that the exclusive representative enjoys certain advantages over the challenging organizations with respect to non-electioneering matters is justified by the fact that these advantages flow from the exclusive's continued status as the exclusive representative of the unit employees and/or as party to an agreement which provides certain rights and privileges which are necessary for the administration of the agreement and for the performance of its representation function.

(c) Agency Neutrality

The agency should, however, be careful not to give favored treatment to one of several competing labor organizations when there is no agreement or where an agreement does not provide for use of agency facilities. For example, an exclusive labor organization which does not have bulletin board use under its agreement should not be given the privilege after a challenge has been made to its representative status, unless the challenging petitioner or intervenor is given the same privilege.

Of primary consideration in agency management's dealing with labor organizations seeking recognition is that there be no disparate treatment between labor organizations having equivalent status [see 5 U.S.C 7116(a)(3)], nor between employees who support unions and those who espouse rejection of any or all unions, except to the extent required by a valid provision in an agreement with an incumbent exclusive representative.²⁴

In this respect, enforcement of valid agency rules in a discriminatory fashion may be held to be an unfair labor

²⁴ See Federal Aviation Administration, New York Air Route Traffic Control Center, A/SLMR No. 184.