

practice under the Statute and may also result in an election being set aside upon the filing of objections.

E. DISTRIBUTION OF LITERATURE

(1) Rights of Employees

The right of employees to distribute union literature, to solicit union members, to obtain union authorizations or to engage in other union campaign activities is not dependent upon the existence or non-existence of a petition for election (where there is no incumbent union) or a petition challenging the status of an incumbent labor organization, since these rights are guaranteed to employees under the law. (See the discussion of employee rights in Section II.A.) (See also The Federal Property Management Regulations, specifically 41 CFR 101-20.308.)

(2) Rights of Non-Employees

A different situation exists regarding rights of non-employees. Since an agency where there is no incumbent union need not permit non-employee representatives of any labor organization to use its facilities for purposes of campaigning or soliciting members, it may, if it permits use of facilities, impose reasonable restrictions applicable to all labor organizations similarly situated. Where no recognition exists, a restriction permitting one table or a designated number of tables for 30 days during any calendar year would not be unreasonable, provided it is applied equally to all labor organizations. Specific privileges concerning solicitation and campaign activities which flow to an incumbent exclusive representative from a negotiated agreement may not be extended to other labor organizations not having "equivalent status"; however, where a union obtains "equivalent status," it must be given the same privilege as the incumbent union regarding access to employees.

(3) Agency Rights

Under 5 U.S.C. 7116(e) an agency also may publicize the fact of a representational election and encourage employees to exercise their right to vote in the election and inform employees of the Government's policy relating to labor-management relations and representation. It should be noted that libelous, scurrilous or inflammatory literature should be removed when posted on the premises; the party posting the material should be instructed to remove the material and if it fails to do so, management should remove the material.²⁵ Agencies should, however, refrain from any involvement in policing or commenting on the contents of literature distributed by employees or by labor organizations in

²⁵ Immigration and Naturalization Service and American Federation of Federal Employees and International Brotherhood of Police Officers, 9 FLRA No. 36.