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# TEAMSTERS JOINT COUNCIL 40
## REPORT OF LEGAL COUNSEL
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### Changes to the LM-30 Reporting Requirements

The LM-30 Labor Organization Officer and Employee Report has been revised since the final rule was published on July 2, 2007, which was the first major overhaul in many years.

As you know, the LM-30 disclosure form must be filed annually by union officials and union employees who receive payments from or have other financial arrangements with union-represented employers, businesses with employees the union actively is seeking to represent or other entities that raise potential conflicts of interest.

Under the 2007 regulation changes, a *de minimis* rule was established for all individual payments of $20.00 or less and in the amount of $250.00 over the span of a year from a specific source. It also excludes from reporting participation in a "widely attended gathering" for which an employer or other business entity has paid less than $125.00 per person/per gathering. The meeting is considered "widely attended" if "it is expected that a large number of people will attend and that attendees will include both union officials and a substantial number of people with no relationship to a union" or its trusts. However, it did require reporting pay in excess of 250 hours per year pursuant to "no docking" arrangements with their employer. These arrangements allow union officials to devote paid work time to union business. There were other aspects of the 2007 regulation which made the LM-30 filing requirements onerous on union officials.

Effective November 25, 2011, the regulation was revised with respect to fiscal years beginning on or after January 1, 2012. There are five changes to the LM-30 filing requirements, which should be noted:

1. <u>The elimination of reporting of union leave and no docking payments, and, more broadly, a revised interpretation of the bona fide employee exception</u>.

This rule returns to the historical practice whereby union officers and employees were not required to report compensation they received under the union leave and no docking policies established under collective bargaining agreements or pursuant to a custom and practice under such collective bargaining agreements. These payments are made by a represented employer to its employees who are serving on behalf of the union on labor management relations matters. Under a union leave policy, the employer continues the pay and benefits of an individual who often works full time on such matters. Under a no docking policy, the employer permits individuals to devote portions of their work day or work week to labor management relations business, such as processing grievances, with no loss of pay. The requirement in the 2007 rule that union officials must report union leave and no docking payments has been strongly criticized as unduly burdensome. This is no longer required under the 2011 rule.

2. The removal from coverage of individuals serving as union stewards or in similar positions representing the union, such as a member of a safety committee or bargaining committee.

   This rule returns to the historical practice of excluding union stewards and similar union representatives from the form LM-30 reporting. The Department of Labor believes this practice comports with the language of 29 U.S.C., §202, and better effectuates labor management relations than the interpretation embodied in the 2007 rule.

3. The elimination of reporting for certain bona fide loans and other financial transactions on Parts A and B of the form.

   This rule establishes administrative exemptions for Parts A and B of the form whereby union officials generally need only report loans from bona fide credit institutions if such loans are on terms more favorable than those available to the public. The 2007 rule required more extensive reporting and made confusing and complex distinctions among various relationships and credit institutions.

4. The limitation on reporting of payments from employers competitive to the represented employer, certain trusts and unions.

   This rule limits the reporting obligation with respect to interests in and payments from employers that compete with employers represented by the official's union or that the union actively seeks to represent. Disclosure of such payments is important, but only where an official is involved with the organizing, collective bargaining, or contract administration activities related to a particular represented employer, or possesses significant authority or influence over such activities. Establishing such limitation on disclosure ensures meaningful information will be provided to union members without imposing undue burden on officials who do not occupy positions of influence over the union's organizing, collective bargaining or contract administration activities related to the represented

employer. Similarly, this rule modifies the scope of reporting insofar as payments from certain trusts and unions are concerned. The Department of Labor returns to the historical practice of not requiring officials to report on payments they receive from trusts or, as a general rule, from unions. Officials of a staff union are, however, still required to report on Part A any payments they receive from the union-employer whose employees the staff union represents.

5. A revision of the reporting required of a national, international and intermediate union officers and employers.

This rule revises and clarifies the scope of "top down" reporting for officials of international, national, and intermediate unions. All higher level union employees that have significant authority or influence with respect to affiliates will also need to report these matters in relation to subordinate affiliates. Higher level union employees without such significant authority or influence over affiliates or officials will not be subject to these "top down" reporting obligations. As the regulation reads, employees of parent and intermediate unions generally will report any financial interests that could pose a conflict of interest over subordinate affiliates over which it has significant authority or influence only. The regulations indicate that you are required to look at employers and businesses that have specified relationships with the level of the union in which you serve as an officer or employee. However, if you are an officer of a national, international or intermediate union, you must also look at employers and businesses that have specified relationships with subordinate affiliates (e.g., a local union or other subordinate body), as well as your own level of the union. These relationships are identified in the instructions for completing Parts A, B and C of the form.

RESPECTFULLY SUBMITTED,

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