



September 29, 2011

[REDACTED]

Dear Sirs and Madam:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor on May 11, 2011, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the nominations and election of officers of the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM), Local Lodge 1776, which concluded on December 7, 2010.

The initial internal protest you filed with Local 1776 on January 4, 2011, contained three separate allegations: (1) that several candidates were deemed ineligible due to a meeting attendance requirement; (2) that absentee ballots were not properly distributed; and (3) that votes of members who did not cast three votes for the positions of Committeemen were improperly discarded. Upon reviewing these protests, the IAM President found that the second of the three allegations had merit and ordered Local Lodge 1776 to conduct a re-run election without new nominations, which took place on August 16, 2011.¹

Accordingly, the Department's investigation focused on the remaining allegation regarding the meeting attendance requirement, which, because it implicates the nominations process, was not remedied by the IAM President's ruling.

¹ The IAM President did not address the third allegation regarding discarded ballots, but the fact that a re-run election was ordered nevertheless had the effect of remedying this allegation as well. Regardless, even if the IAM President's ruling had not remedied the allegation, the LMRDA only covers the election of union officers, defined as a "constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions... and any member of its executive board or similar governing body." 29 U.S.C. § 402; *see also* 29 CFR § 452.17. Indeed, the Local Lodge 1776 Bylaws do not include Committeemen among the union "officers." Local Lodge 1776 Bylaws, Art. IV. Accordingly, the third allegation is beyond the Department's jurisdiction.

The IAM takes the position that your complaint is not properly before the Department, because you also filed an internal appeal of the IAM President's decision that is still under consideration, rendering your protest not "exhausted," as required by 29 U.S.C. §§ 482(a)(1). However, the effect of this appeal is unclear, because this appeal step is not provided in the IAM Constitution. Because of this uncertainty, the Department conducted an investigation of this allegation. As a result of the investigation, the Department has concluded that, even if the allegation is properly before us, no violation occurred that may have affected the outcome of the election. Thus, we need not decide whether the complaint was properly exhausted.

The complaint you filed with the Department alleges that three individuals – [REDACTED] – were unlawfully prevented from participating as candidates for office in the December 2010 election due to their alleged failure to meet Local Lodge 1776's meeting attendance requirement. Specifically, your complaint asserted that [REDACTED] should not have been ruled ineligible on these grounds, that [REDACTED] was deemed ineligible yet had no plausible way to prove otherwise, and that these determinations were made by incumbent officers, which constituted a "gross conflict of interest."

The Department's investigation found that the IAM Constitution allows Local Lodges, through their bylaws, to require members to attend up to 50% of regular lodge meetings during the 12-month period prior to nominations in order to be eligible to run for elected office. IAM Const. Art. B. Pursuant to this provision, the Bylaws for Local Lodge 1776 require that members attend at least 6 different regular monthly or shop information meetings during the previous 12-month period to be eligible to run for office. Local Lodge 1776 Bylaws, Art. III, §6.

The regular meetings are held on the first Tuesday of each month at 7:00 p.m., and the informational shop meetings are held the same day at 12:00 p.m. at the same location, thus providing workers on different shifts the opportunity to attend a monthly meeting. Members are required to sign in when they attend a meeting, and these sign-in sheets are used to determine whether the meeting attendance requirement has been met. Further, Local Lodge 1776 Bylaws provide that if a member cannot attend a meeting due to illness, vacation, military service or conducting union business, the member may request an "excused" absence. These excused absences are only granted upon request; Local Lodge 1776 has never granted blanket meeting attendance requirement exemptions to members who work for a particular employer or on a particular shift.

Upon review of Local Lodge 1776 records, the Department found that during the 12-month period prior to nominations, [REDACTED] attended one monthly meeting, [REDACTED] attended four monthly meetings, and [REDACTED] attended five monthly meetings. None of these individuals ever requested an excused absence for any of the months they did not attend meetings. In interviews with the Department, [REDACTED] did not dispute that he attended fewer than 6 meetings over the previous 12-month period and that he did not request excused absences. While [REDACTED] asserted

that he attended a sufficient number of meetings over the previous 12-month period and that he signed in at each meeting he attended, the Department's records review found that he signed in at only four meetings during this period. [REDACTED] did not dispute the fact that he attended only one meeting, but stated that he was unaware of the meeting attendance requirement and, along with [REDACTED], was unaware of the meeting excuse provisions. However, these provisions have been part of the Local Lodge 1776 Bylaws for years, and [REDACTED] admitted in interviews that he heard excuse authorizations for missing meetings entered into the minutes during the monthly meetings he attended. Finally, the Department's investigation found that all 14 candidates on the ballot in the December 2010 election met or exceeded the Local Lodge 1776 meeting attendance requirement. Accordingly, the evidence demonstrates that the meeting attendance requirement was applied fairly and consistently, and did not constitute a violation of the LMRDA.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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