



September 24, 2014

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on April 3, 2014 with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure (LMRDA) occurred in connection with the election of officers conducted by American Postal Workers Union (APWU), Greater Seattle Area Local 28 on December 9, 2013.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there was no violation of the LMRDA that may have affected the outcome of the election.

You alleged that on or about October 10, 2013, the union improperly allowed [REDACTED] to run for the office of Clerk Craft Director of Customer Service in violation of the union's constitution and bylaws. Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed. Section 401(f) requires that unions conduct officer elections in accordance with the union's constitution and bylaws. Article 6, Section 4.C of the union's constitution and bylaws states that, "All members nominated for one or more offices will be required to file with the GSAL/APWU Secretary a written statement of acceptance of nomination for a single Executive Board position...."

You contended that the union should have disqualified [REDACTED] from running for office after she failed to specify which Clerk Craft office she was running for on her nomination acceptance form. Instead, the investigation determined that the union called her to confirm her intent to run for the Customer Service position, added the Customer Service designation to her Craft Clerk application, and permitted her to run. However, the constitution and bylaws do not prohibit the union from obtaining clarification from nominated candidates. There was also no evidence that the union applied the nomination acceptance qualification differently to other candidates.

Further, the nomination acceptance form was altered with [REDACTED] knowledge and permission. Thus, there was no violation of the LMRDA.

You also alleged that the union failed to follow its constitution and bylaws by setting the deadline for the return of ballots more than fifteen days after mailing them to members. Article 6, Section 5.D of the Union's constitution and bylaws states that the Union shall announce "the date of mailing the ballots and when the ballots will be picked up (fifteen days after the date of mailing)..."

The investigation disclosed that the Union's Election Committee extended the voting period after consulting the Department's publication, Conducting Local Union Officer Elections: A Guide for Election Officials, which suggests a longer period for the return of ballots. Because the closure of several mail processing plants was delaying mail delivery in the area, the Election Committee also extended the deadline to allow the greatest number of members enough time to receive, vote, and return their ballots in time for the tally.

Additionally, 29 CFR §452.102 mandates that "ballots must be mailed to the members no later than fifteen days prior to the date when they must be mailed back in order to be counted." Under the circumstances and the regulations, the Election Committee's decision to institute a deadline later than fifteen days after mailing was not a clearly unreasonable application of Article 6, Section 5.D of the constitution and bylaws. Therefore, no violation of the LMRDA affecting the outcome of the election occurred.

You finally alleged that the union violated the LMRDA by failing to properly count ballots that arrived after the December 9, 2013 deadline. You claim that the union extended the voting deadline in the last election because of close voting margins as well as mail delays. You further allege that [REDACTED] and [REDACTED] were prevented from voting because they received ballots late.

A review of the mail ballot packages showed that the ballot instructions state that "All ballots must be received by 10AM on December 9, 2013 or they will not be counted" and that the mailing envelopes also stated, "YOUR BALLOT MUST BE RECEIVED BY 10AM DECEMBER 9, 2013 OR IT WILL NOT BE COUNTED" (emphasis in original). As discussed above, the union permissibly made accommodations for area mail delays by making the voting period eighteen days instead of the usual fifteen. Further, the evidence indicated that ballots were mailed to both [REDACTED] and [REDACTED] on November 21, 2013, the same day that all the other ballots were mailed to members. There was no violation of the LMRDA.

For the reasons set forth above, it is concluded that no violation of the LMRDA affecting the outcome of the election occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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