

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Washington District Office
800 N. Capitol St., NW, Suite 120
Washington, DC 20002
(202) 513-7300 / FAX: (202) 513-7301



September 30, 2008



Dear [REDACTED]:

This is in response to your letter dated August 11, 2008, in which you seek to file a complaint with the Secretary of Labor challenging the American Association of University Professors' (AAUP) general officer and council election, the Assembly of State Conferences (ASC) officer election, and the Collective Bargaining Congress (CBC) officer election.

The Office of Labor-Management Standards (OLMS) of the U.S. Department of Labor enforces provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), including those which govern union officer elections.

Section 402 of the LMRDA provides that before a member may file an election complaint with the Secretary of Labor, he or she must first exhaust the remedies available under the constitution and bylaws of the labor organization and of any parent body, or must pursue such remedies for three calendar months without obtaining a final decision. Furthermore, OLMS may only investigate complaints filed by members about regularly scheduled elections of officers in entities that are labor organizations as defined by Section 3(i) of the LMRDA.

With respect to your complaint regarding the AAUP general officer and council election, this office has reviewed the correspondence you submitted and the appropriate provisions of the AAUP Election Bylaws dated November 2006. According to the bylaws, you were required to file an appeal to the AAUP Election Appeals Committee within 10 business days of receipt of an adverse decision from the AAUP Election Committee. After reviewing your correspondence and the information you provided during your interview with OLMS on August 19, 2008, we determined that you did not file an appeal to the AAUP Election Appeals Committee as required by the union bylaws. Therefore, you failed to properly exhaust all internal remedies available to you, and OLMS does not have jurisdiction to investigate your complaint regarding this election.

With respect to your complaint regarding the ASC officer election, we concluded that the ASC is not a labor organization subject to the LMRDA. We conducted several interviews with AAUP representatives and confirmed that the ASC is not a separate labor organization, but rather an administrative arm of the AAUP. During your interview with OLMS, you also advised that the ASC was part of the AAUP and was not a separate, distinct organization. Since the ASC is not a

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labor organization, the ASC officer election is not covered by the LMRDA. OLMS does not, therefore, have jurisdiction to investigate your complaint regarding this election.

With respect to your complaint regarding the CBC officer election, we concluded that the CBC is not a labor organization subject to the LMRDA. We conducted several interviews with AAUP representatives and confirmed that the CBC is not a separate labor organization, but rather an administrative arm of the AAUP. During your interview with OLMS, you also advised that the CBC was part of the AAUP and was not a separate, distinct organization. Since the CBC is not a labor organization, the CBC officer election is not covered by the LMRDA. OLMS does not, therefore, have jurisdiction to investigate your complaint regarding this election.

Moreover, even if the CBC was a covered labor organization, you are not a member of the CBC. Please be aware that Section 402 of the LMRDA requires a person who wishes to file a complaint on a union officer election to be a member of that labor organization. According to the AAUP, in order to be a member of the CBC, you must be a member of an AAUP chapter that engages in collective bargaining. You joined the AAUP as an at-large member in September 2007 and thus, you are not a member of any AAUP chapter. Since you are not a member of the CBC or any AAUP chapter, you would be precluded from filing a complaint about officer elections in the CBC or any AAUP chapter.

I have enclosed a copy of the LMRDA and an OLMS pamphlet entitled *Union Officer Elections – A Complainant's Guide*. The procedures and requirements for filing an election complaint with the Secretary of Labor are outlined on page 2 of this pamphlet. I hope this information is helpful to you. If you have any questions, please contact me. My phone number is (202) 513-7316.

Sincerely,

Mark Wheeler
District Director

Enclosures

bcc: DOE