



October 27, 2011



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on June 22, 2011. You alleged that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the Laborers' International Union of North America (LIUNA) Local 1214 May 2011 election by acclamation.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that there was no violation of the LMRDA.

You alleged in your complaint that the election committee improperly disqualified you to run for the office of business manager/secretary-treasurer/ delegate to the convention & district council. Section 401(e) of the Act provides that "every member in good standing shall be eligible to be a candidate and to hold office (subject to . . . reasonable qualifications uniformly imposed). . . ." Department regulations state: "It would ordinarily be reasonable for a union to require candidates to be employed at the trade or even to have been so employed for a reasonable period. In applying such a rule, an unemployed member is considered to be working at the trade if he is actively seeking such employment." 29 C.F.R. § 452.41. Thus, a union may limit candidate eligibility based on work history.

Article V, Section 4 of the LIUNA Uniform Local Union Constitution provides that "[n]o one shall be eligible to hold any office in the Local Union if the person has not been regularly working at the calling of the International Union during the entire year immediately prior to nomination." This requirement may be met by a member who is engaged in "[e]mployment for which the Union serves" or "[p]eriods of unemployment where the member was available for and continuously and actively sought employment at the calling which shall be understood to require full compliance with the lawful rules of the referral service or hiring hall. . . ." The 2011 LIUNA Delegate Elections Training Manual further clarifies: "In attempting to secure work at the calling, an individual

must comply with all rules of the Local Union's referral service or hiring hall. . . . A member likely will not satisfy the requirement of working at the calling, however, if he or she repeatedly refused referrals."

The investigation revealed that the union's referral policy requires members to call the union to register at specific times and days during three months of the year. Members must also be available to answer their phones for job referral calls for four hours during the mornings of each work week. If members do not answer their phones, do not call back the union in time, or refuse a job, they are placed at the bottom of the out-of-work list. The union does not accept excuses for failing to follow the referral policy.

The investigation further revealed that the union's one-year, working-at-the-calling requirement was reasonable and uniformly applied. The Department reviewed your work history and determined that you refused or were unavailable for four jobs (over half those jobs offered), missed two registration calls, and worked at the calling for only 71 days in the year prior to the nomination. Based on the number of days worked and your unavailability, it was reasonable for the union to determine that you did not meet the working at the calling requirement and were not actively seeking employment.

The Department also investigated the eligibility of all other candidates in the May 2011 election and found that the union's eligibility decisions regarding working at the calling were reasonable and uniform. Though you alleged that the requirement was enforced in this election to prevent you and another woman from running on the basis of your gender, the investigation did not reveal any evidence to support this allegation. Instead, the investigation showed that a male candidate was also disqualified for not working at the calling. There was no violation.

It is concluded from the analysis set forth above that the investigation failed to disclose any violation of the Act. Accordingly, I am closing the file on this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: Terry O'Sullivan, General President
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