



February 7, 2013

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your September 25, 2012 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection the April 30, 2011 election for Ford Medical Services Unit (FMSU) Chairperson conducted by United Automobile Workers (UAW) Local 600.

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 affecting the outcome of the election.

Section 401(b) of the LMRDA requires that local labor organizations elect officers by secret ballot. You alleged that UAW Local 600 unlawfully failed to maintain ballot secrecy when it counted a faxed ballot.

The investigation confirmed that the faxed ballot identified the voter and, therefore, should have been voided. However, the investigation revealed that the violation of the secret ballot provision did not affect the outcome of the FMSU Chairperson race. The Department's review of election records confirmed that the tainted ballot had been included in your 16 vote total and not in your opponent's 17 vote total. Your opponent had won by a one-vote margin. Voiding that ballot had the effect of decreasing your vote total from 16 to 15 and increasing winning candidate [REDACTED] margin of victory to 2 votes. Thus, the voided, faxed ballot did not affect the outcome of the election. There was no violation of the LMRDA affecting the outcome of the election.

Section 401(c) of the LMRDA requires unions to provide adequate safeguards to ensure a fair election. Adequate safeguards include an accurate count of the ballots. You alleged that the union failed to properly count the ballots.

The investigation disclosed that the ballots for the FMSU Chairperson race were initially miscounted on April 30, 2011, but also confirmed the conclusion of CPA [REDACTED] and the UAW International Executive Board from the ballot recounts that [REDACTED] received the highest number of votes for FMSU Chairperson. Moreover, the investigation revealed no instances of voters casting multiple ballots or any other evidence of ballot tampering or substitution. Therefore, no violation of the LMRDA affecting the outcome of the election occurred.

Section 401(e) of the LMRDA requires that unions conduct officer elections in accordance with the union's constitution and bylaws. The Department generally gives deference to a union's consistent interpretation of its constitution and bylaws, unless the interpretation is clearly unreasonable. You alleged that UAW Local 600 violated its Constitution and Bylaws and the LMRDA by deciding the FMSU Chairperson election by plurality vote as opposed to majority vote.

Article VIII, Section 2(g) of the UAW Local 600 Constitution and Bylaws states, in part, "All candidates for Local Executive and Unit Office, as previously defined, must be elected by majority vote...Candidates for all other elective positions shall be elected by the highest number of votes cast." The investigation revealed that the union has consistently interpreted this bylaw to mean that only unit officers established by independent unit bylaws are required to be determined by majority vote whereas officers in units without unit-specific bylaws – such as FMSU – are decided by plurality vote.

A review of election records further disclosed that in this and prior elections, the union uniformly decided chairperson elections by plurality vote for units such as FMSU that do not have their own unit bylaws. The union has been consistent in its interpretation of this provision and its interpretation is not clearly unreasonable. There was no violation of the Constitution and Bylaws or Section 401(e) 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,

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Chief, Division of Enforcement

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