



October 23, 2013

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to both your April 19 and June 17, 2013 complaints filed with the U.S. Department of Labor alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). In your April 19, 2013 complaint against International Union of Operating Engineers (IUOE), Local 501 and your June 17, 2013 complaint against the IUOE International you alleged that Local 501 failed to nominate and elect delegates to attend the 2013 IUOE International General Convention.

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

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.

The Department's investigation confirmed that Local 501 failed to hold a convention delegate election in 2013 as required by Article XIV of its bylaws. The investigation established that the Local 501 Executive board voted to only send the two delegates by virtue of office, business manager and president, to the IUOE General Convention, on the advice of the local executive board's bankruptcy attorney. The local executive board's decision to send 2 delegates to the IUOE Convention, rather than hold a delegate election for 16 delegates, as required by Article XIV of its Bylaws, was a violation of section 401(f) of the LMRDA. This violation, however, did not affect the outcome of the election. As you are aware, the convention delegates unanimously elected incumbent James T. Callahan as general president and incumbent Brian E. Hickey as general secretary-treasurer. All incumbent international vice presidents and trustees were also unanimously elected by acclamation. Thus, unless a candidate or candidates had been nominated to oppose the candidates who were elected, an additional 14 delegates could not have changed the outcome of the International election.

With regard to your claim that Local 501's failure to hold a delegate election effectively denied you the opportunity to run for the office of general president because you were not a delegate to the IUOE Convention, the investigation revealed that neither the IUOE International Constitution nor Local 501's Bylaws require that a candidate for general president be a delegate at the IUOE convention. Article IV, Section 2, of the IUOE Constitution states that the nomination of candidates for the offices of general president and general secretary-treasurer must be supported by the written petition of at least six local union delegations.

The investigation revealed that if a member were planning to run for office, he or she could have obtained signatures for his petition in advance of the convention as early as November 2012. A member could have mailed a packet with the required signatures to the International before the convention and the packet would have been forwarded to the chair of the convention for nomination. Further, the investigation revealed that you could have obtained the signatures from six delegations either prior to the convention or by attending the pre-convention activities. The investigation established that there were numerous delegates present in the hotel prior to the start of the convention and that you could have obtained signatures from them. Moreover, the investigation revealed that you have attended pre-convention meetings in the past and should have been aware of the opportunity to obtain the required signatures for your petition. Thus, Local 501's failure to hold delegate elections did not prevent any member or you from declaring your candidacy for general president and obtaining the required signatures from six local union delegations. There was no violation of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I am closing our file regarding this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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