

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Division of International Union Audits
1341 G Street, N.W., Room 201
Washington, D.C. 20210



September 30, 2008

Mr. Gary Rychard
President
American Association of Classified School Employees
555 New Jersey Avenue, NW
Washington, DC 20001

RE: International Compliance Audit Program (I-CAP)
American Association of Classified School Employees
(AACSE)
LM File Number 516-419

Dear President Rychard:

The Office of Labor-Management Standards (OLMS) within the Department of Labor recently completed a compliance audit of the American Association of Classified School Employees (AACSE or Association) to assess its compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The audit was conducted under the OLMS International Compliance Audit Program (I-CAP).

On September 29, 2008, the I-CAP Team conducted an exit interview with you and George Williams, Treasurer, via telephone; Ms. Patricia Olshefski, Assistant Treasurer; and Ms. Teresa Idris, Counsel. During the exit interview, the I-CAP Team reviewed audit findings, identified actions that the AACSE must take to correct the deficiencies identified, and recommended actions to enhance the union's internal controls. This letter captures the audit's civil findings as generally discussed during the exit interview. It does not purport to be an exhaustive list of all possible problem areas, since the audit was limited in both scope and duration.

Reporting Violation - LMRDA Section 201(a)

Section 201(a) of the LMRDA requires that every labor organization that amends its constitution and bylaws file a copy of the revised documents when the union files its next annual financial report with OLMS.

1. The version of the AACSE constitution that was on file with OLMS at the start of the audit was dated November 2002. The audit disclosed two more recent versions of the AACSE constitution, one dated October 2006 and one dated March 2008. A copy of the most recent version of the constitution (March 2008) has now been filed by the AACSE with OLMS. The I-CAP Team informed the AACSE that Form LM-3 instructions require that if the labor organization's constitution and bylaws were changed in the reporting period (other than rates of dues and fees), a dated copy of the new constitution and bylaws must be submitted to OLMS with the Form LM-3 for that reporting period.

Reporting Deficiencies - LMRDA Section 201(b)

Section 201(b) of the LMRDA requires that every labor organization file with OLMS an annual financial report that accurately discloses the union's financial condition and operations. The following deficiencies were noted on the AACSE Form LM-3 for the fiscal year ending June 30, 2007. The deficiencies identified in this section must be corrected in an amended Form LM-3 for the fiscal year ending June 30, 2007. Further, subsequent Form LM-3 filings must be prepared so as not to contain these deficiencies.

2. The AACSE incorrectly reported disbursements of \$78,000 to lobbyist F/S Capitol and disbursements of \$510 to website designer Net Echoes in Item 54 (Other Disbursements). Instead, these disbursements should be reported in Item 49 (Professional Fees). The LM-3 instructions require reporting total disbursements for "outside" legal and other professional services (auditing, economic research, computer consulting, arbitration, etc.) in Item 49.
3. The AACSE incorrectly reported its dues rate as \$1 per member in Item 23 (Rates of Dues and Fees). The Association does not receive dues; \$1 per member is the monthly per capita tax rate as stated in Section 1, Article III of the AACSE's constitution. The AACSE must remove the information reported in Item 23.
4. The AACSE incorrectly reported per capita tax receipts of \$121,608 in Item 38 (Dues). This amount should have been reported in Item 39 (Per Capita Tax) as the AACSE collects per capita tax, rather than dues. Per Section 1, Article III of the AACSE's constitution: "Organizations affiliated with the AACSE shall pay per capita dues of \$1.00 per member per year."
5. The AACSE incorrectly reported disbursements of \$699 for fidelity bond premiums in Item 54 (Other Disbursements). This amount should have been reported in Item 48 (Office & Administrative Expense). The LM-3

instructions require that total disbursements for ordinary office and administrative expenses, including rent, utilities, office supplies, postage, subscriptions, fidelity bond premiums, etc., be reported in Item 48.

6. The AACSE incorrectly reported lost time paid to two officers in Column (E) of Item 24 (All Officers and Disbursements to Officers). The LM-3 instructions require lost time to be reported in Column (D) of Item 24.
7. The AACSE did not report all officers in Item 24 (All Officers and Disbursements to Officers). Specifically, the AACSE did not list the affiliate representatives in Item 24. The LMRDA defines "Officer" as any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any members of its executive board or similar governing body. The AACSE's constitution states that the Board of Directors shall consist of two duly elected representatives from each of the affiliated organizations, plus the officers of the association. Therefore, the AACSE must report the affiliate representatives in Item 24.

Reporting Delinquencies - LMRDA Section 201(b) and 207(b)

Section 201(b) of the LMRDA requires that every labor organization file with OLMS an annual financial report that accurately discloses the union's financial condition and operations. The Department's regulations and Section 207(b) of the LMRDA require that annual financial reports must be filed within 90 days after the end of the union's fiscal year.

8. The AACSE has not filed its Form LM-3 reports on time in the last five (2003-2007) reporting periods. The delinquencies have ranged from a few days to more than thirty days late. The law and LM-3 instructions require that the Form LM-3 must be filed within 90 days after the end of the Association's fiscal year.

Inadequate Recordkeeping - LMRDA Section 206

Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported that will provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness. All required records must be maintained for at least five years following the date the report is filed. Records over five years must be maintained if they are necessary to verify reports filed within the last five years, for example, to verify current financial activities of the union, such as meeting minutes that note approval for officer salary increases. There were instances

noted during this audit where the AACSE did not comply with the recordkeeping requirements of Section 206. During the exit interview, you were informed that adequate records necessary to document all financial transactions, regardless of the amount, must be maintained for a minimum of five years.

9. The AACSE did not retain adequate documentation for some travel-related reimbursed expenses, including taxicab fare, mileage and per diem. AACSE records included one taxicab receipt that had been altered with correction tape. AACSE records for mileage reimbursements did not include the dates of travel, locations traveled to and from, and the number of miles driven. AACSE records did not include a voucher or other documentation in support of per diem paid to two officers.
10. The AACSE periodically reimburses its affiliated organizations for travel-related expenses paid by those organizations on behalf of AACSE officers. In some of those instances, the AACSE did not retain adequate documentation for those reimbursed expenses. In one instance, the AACSE paid \$2,319 in reimbursement to the American Federation of Teachers for the travel-related expenses of AACSE officers, yet did not retain supporting documentation for \$403 of the reimbursed gas, mileage, hotel, parking and meal expenses. Labor organizations must retain original receipts, bills, and vouchers for all disbursements, including indirect disbursements.
11. The AACSE did not always maintain adequate documentation for meal expenses. First, the AACSE did not always maintain itemized receipts for meal expenses. The Association must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirements of LMRDA Section 206. Second, the AACSE did not always include written explanations of Association business conducted or the names and titles of the persons incurring the restaurant charges. AACSE records of meal expenses must include written explanations of the Association business conducted and the full names and titles of all persons who incurred the restaurant charges in order to fulfill the recordkeeping requirements of the LMRDA Section 206.
12. The AACSE did not retain supporting documentation for one payment made to a credit card company and one of the bank statements for its savings account. Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported to provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness.

Bonding - LMRDA Section 502

Section 502 of the LMRDA requires that every person who handles funds or other property of the union shall be bonded for no less than ten percent of the total funds handled by those individuals or their predecessors during the preceding fiscal year, but in no case more than \$500,000. The audit disclosed a violation of LMRDA Section 502.

13. The AACSE has an insurance policy with the Great American Insurance Company of New York that provides coverage for loss. This policy does not meet the requirements of LMRDA Section 502 in several ways. First, the policy applies per "each occurrence" when it must apply "per employee." Second, it does not appear that the policy defines "employee" or covers non-compensated officials or representatives of the organization who handle funds. Specifically, it is unclear whether the Assistant Treasurer, who regularly handles AACSE funds, is covered. Third, it appears that the policy does not cover all acts of fraud or dishonesty, such as "double dipping" or lost time claims. Fourth, it appears that the policy includes a deductible in the amount of \$250. A deductible represents a part of a claim that insurance will not cover and, therefore, constitutes partial self-insurance. Any type of self-insurance, in whole or in part, fails to meet the requirements of Section 502. The AACSE must amend its coverage to fully comply with LMRDA Section 502 in all of the above areas.

Office Holding Prohibitions - LMRDA Section 504

Section 504 of the LMRDA prohibits persons convicted of certain offenses from holding labor organization office or employment for a period of thirteen years from the date of conviction or release from prison, whichever is later. It is also a violation of Section 504 for another person to willfully and knowingly hire, retain, employ or otherwise place the barred person in a prohibited capacity.

14. The AACSE does not conduct criminal background checks of officers or employees to determine whether any officer or employee has a disqualifying criminal record. During the exit interview, the I-CAP Team emphasized the importance of verifying background information to ensure that individuals do not hold office or employment in violation of LMRDA Section 504.

Internal Controls

Adequate internal financial controls are essential to prevent the misuse of union funds and to support financial responsibility and other obligations under Title II and Title V of the LMRDA. Title V of the LMRDA stipulates, among other things, the fiduciary

responsibility of officers of labor organizations. As a general rule, weaknesses in financial controls can lead to violations of Section 501 of the LMRDA.

15. As noted in deficiency #11 above, the AACSE reimbursed officers for travel-related expenses such as taxicab fare, mileage and per diem despite having inadequate documentation. All travel-related expenses should be properly documented before the Association pays or reimburses the officer for those expenses.
16. The AACSE's "Travel Expense Reimbursement Voucher" does not have a signature line for the traveler. In the interest of strengthening internal controls, the I-CAP Team recommends that the AACSE add a signature line for the traveler and a statement certifying that the traveler/signer is entitled to the expenses claimed for reimbursement and that the expenses were for business purposes. This would ensure that the traveler is responsible for the information submitted on that form and entitled to the funds requested.
17. The AACSE relies on an individual who operates under the title of "Assistant Treasurer" to handle the day-to-day financial operations of the organization. This individual is not an elected officer or a paid employee of the AACSE. She is a paid official of an AACSE-affiliated organization and volunteers her services to the AACSE. Her financial activities on behalf of the AACSE include authorizing the disposition of the principal and interest of certificates of deposits and signing almost all of the checks for the AACSE disbursements. The audit revealed that no AACSE officer regularly reviews or signs checks or regularly reviews, authorizes, or approves financial activity in general. The I-CAP Team recognizes that the AACSE's officers do not work full-time in the headquarters area of Washington, DC and that the AACSE does not have any paid employees at all. The I-CAP Team, nevertheless, recommends that AACSE establish controls to segregate authorization, recording, and custody in the AACSE's financial operations and that, at a minimum, one AACSE officer sign or at least approve in writing all checks prior to issuance. Additionally, the AACSE Treasurer should communicate directly with the bank regarding the CD transactions. Also, all financial activity should be periodically reviewed by an officer with evidence of such review.
18. The AACSE holds officer elections every year. There is a possibility that there could be four new AACSE officers each year. Further, they could be in four different locations around the country. There does not appear to be a method to ensure that newly elected officers receive the records of their predecessors. The I-CAP Team recommends the Association implement a system to ensure that all Association records are passed to the newly elected officers.

Other Issues

19. The AACSE mistakenly paid an officer \$45 per diem twice for the same day. As discussed in the exit interview, the officer must reimburse the Association for the \$45 overpayment.

20. The AACSE reported a total of three members in Item 19 (Number of Members). For the fiscal year ended May 31, 2005, the Association reported 111,851 members. The audit revealed that the AACSE changed its Item 19 reporting from the number of members in its affiliate organizations to the number of affiliate organizations. To ameliorate confusion and provide greater transparency, the I-CAP team recommends that the Association report the number of individuals, not affiliated unions, in Item 19 (Number of Members).

As discussed during the exit interview, the AACSE will submit, within thirty days from the date of this letter, a response letter to this closing letter and an amended Form LM-3 for reporting period June 30, 2007. The response letter should identify the corrective actions implemented by the AACSE based on the results of this compliance audit. We will schedule an on-site follow-up in approximately six months to review corrective actions taken, to discuss the amended Form LM-3 reports filed by the AACSE, and to continue cooperative efforts to prevent and correct LMRDA deficiencies. Please accept my appreciation for the cooperation and courtesy extended by you and your staff during this compliance audit. If you have any questions, please do not hesitate to contact me.

Sincerely,



James D. Devine, Chief
Division of International Union Audits

cc: George Williams, Treasurer
Teresa J Idris, Senior Associate, Legal Department, American Federation of Teachers