



American Federation of Teachers

VIA OVERNIGHT MAIL

June 20, 2011

Wallace Peace  
President  
WCCC Federation of Teachers, Local 2000, AFT-Michigan, AFT, AFL-CIO  
P.O. Box 441485  
Detroit, MI 48244

Dear Ms. Allen & President Peace:

This letter shall constitute a final decision in the preliminary investigation begun by the AFT in response to the election investigation request, dated April 11, 2011, from Ms. Allen. Pursuant to the procedures AFT follows in handling election investigation requests, we have treated this as a preliminary investigation under Article VI, § 14(b) of the AFT Constitution. The AFT has carefully considered all of the allegations made in the original request and in subsequent communication to this office. Our findings and determinations concerning these allegations are set forth below.

As you are aware, Article VI, § 14(b) of the AFT Constitution authorizes the AFT Executive Council to commence an investigation where it appears an election has been conducted "in violation of the local or state federation constitution, the AFT constitution, or applicable federal law..." However, before the Executive Council considers such requests, the AFT has traditionally undertaken a preliminary investigation to ascertain whether there is a bona fide challenge to the election. The purpose of that investigation is not to resolve all the issues surrounding the election, but instead, to determine whether the challenge raises material questions. Once the preliminary investigation is complete, only those challenges that contain material issues in dispute are referred to the Executive Council for a full investigation.

The AFT has determined that the evidence presented in support of the allegations made by Ms. Allen does not warrant a referral of this preliminary investigation to the AFT Executive Council. Evidence that came to light during the investigation demonstrated that the local took steps to ensure that the election was conducted legally, despite certain improper language in the local constitution. Furthermore, there is insufficient evidence to demonstrate that the outcome of the election would have been different had

offending conduct not taken place. This letter shall serve as a final determination of all matters raised in the investigation request.

I. Background

In March of 2011, Local 2000 held a mail ballot election for officers, pursuant to Article VIII of its constitution. Ms. Allen, a candidate for the position of 2<sup>nd</sup> vice president challenged the outcome of the election via a letter to President Weingarten, dated April 11, 2011. The AFT notified the local of the election challenge and requested a response from the local to the allegations, along with a copy of the local constitution, notice of nominations and election, and a copy of the election rules. These items were received from the local via a letter dated May 5, 2011.

II. The Charges

The charges leveled by Ms. Allen, along with the local's response and the AFT's findings are set forth below.

- A. The votes of certain part-time members were counted as 4/10ths of a vote.

Ms. Allen has alleged that in the recent election, the votes of certain part-time members were counted as 4/10ths of a vote. This allegation appears to be based on language in Article XIV of the Local 2000 constitution, which states in its entirety,

Section 1. On issues of tentative and final contract ratification, strike vote, election of officers, and Constitutional Amendment, each full-time member shall have one vote and each part-time faculty member shall have four-tenths of one vote. Part-time members receives [sic] full vote if teaching 10 hours or more.

Section 2. On all other questions, all members shall have one vote.

Ms. Allen has alleged that the counting of part-time members' votes as 4/10ths of a full-time member's vote is a violation of the AFT Constitution. Ms. Allen is correct. Article IV, § 5 of the AFT Constitution specifies that all local elections shall be conducted consistent with the standards for such elections developed under Title IV of the Labor-Management Reporting and Disclosure Act of 1959. Such standards specify that all members in good standing must be afforded one full vote. The same Article states that no local constitution may be in conflict with the AFT Constitution. As Article XIV of the Local 2000 Constitution applies to contract ratification votes as well as union officer

elections, it should be reviewed by local counsel to determine its legality under state law. The provisions of Article XIV that relate to the election of union officers must be struck in their entirety.

Despite the constitutional infirmity that Ms. Allen has brought to light in her challenge, the local has assured the AFT that the offending article of the local constitution was not followed and that, in fact, all members (both part-time and full-time) had their votes counted on a "one man, one vote" basis because the local was aware that Article XIV is in violation of the AFT Constitution.

Due to the fact that all votes were counted as full votes and the fact that Ms. Allen has brought no evidence to light which suggests the election would have had a different result had the offending language not been in the Local 2000 Constitution, her allegation concerning this subject is dismissed.

- B. Only full time members were permitted to be on the ballot for key positions including president and treasurer.

It has been alleged that part-time members were not permitted to be on the ballot for certain "key" positions, including president and treasurer. Ms. Allen has not specified any part-timers who desired to run as candidates for these positions and who were denied the right to do so. In its response, the local categorically denies this allegation. Furthermore, the AFT Michigan staff representative assigned to Local 2000, Liz Duhn, has stated that a part-timer was nominated from the floor for president and accepted the nomination. However, that member subsequently voluntarily chose not to run.

No evidence has been presented in support of this allegation by Ms. Allen. The Local 2000 Constitution does not prohibit part-timers from running for office and it appears that at least one part-timer was nominated to run for president at a duly called membership meeting of the local. This allegation is dismissed.

- C. Several members in good standing did not receive ballots.

Ms. Allen has alleged that several members in good standing did not receive ballots. No evidence was presented concerning how many members in good standing were affected. In its response, the local indicated that it sent ballots to current members at the addresses they had on file. This is in line with the LMRDA's requirement to send notice of election and ballots to members in good standing at their last known address. Due to the fact that Ms. Allen has not produced any proof that the local's system in this regard was in any way deficient and she has failed to state with specificity the extend of the alleged problem, this allegation is dismissed.

D. Three election committee members were also candidates for office.

It has been alleged that three candidates for office also served on the election committee. Ms. Allen has failed to specify who these individuals are. In the course of this preliminary investigation, the AFT has determined that at least two candidates for office, Alida Quick and Michael Wright, did serve on the election committee. This is a violation of best practices for democratic union elections. In all circumstances, candidates ought to have no role in the conduct of an election in which they are taking part.

In its response, the local has acknowledged that three candidates for office did serve on the election committee and has stated that the AFT Michigan staff rep, Liz Duhn, supervised the conduct of the committee. Ms. Duhn's supervision does not obviate the need for the local to follow proper democratic procedures. It was not in the best interest of democracy to allow these candidates to serve on the election committee.

We will not be sustaining this challenge and referring it to the AFT Executive Council for two reasons. First, Ms. Allen has not produced any evidence that the involvement of these individuals on the election committee altered the results of the election in any way. Second, Ms. Duhn has provided assurance that no candidate was permitted to take part in the preparation or counting of the election ballots. This allegation is dismissed.

E. There were discrepancies between the election procedures outlined in the local constitution and those in the election notice posted on the local website.

Ms. Allen has alleged, "...there are discrepancies with both the nomination and election procedures as it is written in the AFT 2000 Constitution versus the procedures designated in writing on the former President's (James Jackson) Page found on the AFT 2000 website..." Again, Ms. Allen has not alleged with any specificity the discrepancies she is talking about. The response from the local as well as communication from Ms. Duhn, indicates that there was a good faith effort made to follow the law, the local constitution, and the national constitution. As there has been no evidence produced to suggest which procedures were in conflict and there has been no evidence produced which suggests that any alleged discrepancies affected the result of the election, it is impossible to find merit in this allegation, which is hereby dismissed.

### III. Conclusion and Suggestions Going Forward

This preliminary investigation has brought to light one additional infirmity in the local constitution. The last line of Article III, § 5 states, "Adjunct members are not eligible to vote in union elections." This line violates the AFT Constitution because it is inconsistent with the same "one man, one vote" principle discussed in Section II(A) of this letter, *supra*. This line, along with the other offending language discussed in this letter must be struck from the local constitution. In order to avoid confusion going forward, rather than simply not following the provisions that violate the AFT

Constitution, the local ought to actually strike them from its constitution. Due to the fact that these sections violate the AFT Constitution and the AFT Constitution takes precedence over the local constitution, there is no need to go through a formal amendment process to remove the offending language. It may simply be struck and future digital and printed copies of the Local 2000 constitution should not contain the offending language. All members of the local should be informed of the fact that these changes have been made and the reasons for such modifications. In order to remain in good standing with the AFT, the local should send a complete correct copy of its constitution to the AFT Secretary-Treasurer's office, pursuant to Article IV, § 5 of the AFT Constitution and Article X, § 1(f) of the AFT Bylaws.

In the future, the local should make sure that the election committee may not include candidates for office. The local may wish to amend its constitution to specify that this is not proper.

Our determination is final and is not subject to appeal. Thank you for contacting your national union with regard to these issues.

Sincerely,



Antonia Cortese  
Secretary-Treasurer

AC : DS : SL opeiu#2 afl-cio

cc: David Hecker, AFT Vice President  
Gerard Friesz, Acting Regional Director, AFT Great Lakes Region  
Larry Gold, Director, AFT Higher Education  
Liz Duhn, Staff Representative, AFT Michigan