



June 29, 2010

Ms. Tonja Williams, President
Teachers, AFL-CIO, Local 3721
United Cerebral Palsey Employees Union
3475 Genesee Street, Apt 1W
Cheektowaga, NY 14225

Case
Number: [REDACTED]
LM Number: 512142

Dear Ms. Williams:

This office has recently completed an audit of Teachers Local 3721 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you and Treasurer Laurie D'Amico on June 23, 2010, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

Record Keeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and

source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 3721's 2009 records revealed the following recordkeeping violation:

Disbursements Records and Bank Statements

Local 3721 did not retain adequate documentation for expenses totaling at least \$2,236. For example, supporting itemized receipts were not maintained for purchases made with cash cards purchased from Key Bank. The cash cards were used by Treasurer D'Amico for disbursements such as cell phone bills, arbitration expenses, postage, and office supplies.

Additionally, Local 3721 failed to retain bank statements and canceled checks for its checking account for several months of the audit period. These documents had to be requested from the bank during the course of the audit, extending the amount of time necessary to complete the audit.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 3721's LM report. You should be aware that under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-3 filed by Local 3721 for fiscal year ending August 31, 2009, was deficient in the following areas:

1. Cash Reconciliation

It appears that the amounts reported in Item 25 (Cash) are not the cash figures according to the union's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

2. Fixed Assets

The amounts reported for fixed assets in Item 29(Fixed Assets) indicate an increase in fixed assets during the reporting period (from \$4,200 to \$5,310); however, nothing was reported in Item 52 (Purchase of Investments and Fixed Assets). Fixed assets purchased by the union, such as office equipment, cell phones or digital cameras must be reported in Item 52.

3. Liabilities

The amounts reported in Items 32-36 D (Liabilities End of Reporting Period) from the LM-3 report for the previous fiscal year (2008) were not reported as beginning figures for the 2009 report. These figures should have been reported in Items 32-36 C (Liabilities Start of Reporting Period) on the 2009 LM-3 report. After discussion during the exit interview with union officers, it appears there was some confusion as to what items should be reported as liabilities on the report. In furtherance of our conversation, please refer to the LM-3 instructions for guidance when completing next year's report.

I am not requiring that Local 3721 file an amended LM report for 2009 to correct the deficient items, but Local 3721 union officers have agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Delinquent Filing

Local 3721 has repeatedly filed its annual LM-3 report with OLMS late, despite having been cited for doing so in a 2005 audit conducted by our agency. For example, the LM-3 for the fiscal year ending August 31, 2009 was not received by OLMS until April 1, 2010. The LMRDA requires the annual report to be filed within 90 days after the end of your union's fiscal year. Local 3721 officers have

assured me this issue will be addressed with the filing of its next annual LM report. Based on this assurance, OLMS will take no further enforcement action at this time regarding this violation.

Other Issues

1. Approval of Expenses

The audit revealed some expenses were not properly approved by more than one union officer. For example, the furnace in the union's rented office space had been repaired without proper approval by union officers other than Treasurer D'Amico. Also, the union had not sought reimbursement from the union's landlord for the cost of the repairs at the time of the audit, several months after the repairs were completed. This issue was discussed during the exit interview and you and Treasurer D'Amico agreed to ensure all expenses in the future have proper approval.

2. Signatures on Checks

The union requires that all checks be signed by two union officers prior to an expense being paid and that the executive council approves all expenditures outside of the normal operating expenses of the union. During the opening interview of the audit, you and Treasurer D'Amico acknowledged some checks had been pre-signed in the past and the treasurer had also signed the president's name to some checks when the president was unavailable. The purpose of two signatures on union checks is to ensure accuracy and legitimacy of the disbursements of union funds by allowing more than one union officer to review a disbursement before it is made. As discussed during the exit interview, these practices are no longer being used by the union.

I want to extend my personal appreciation to Teachers Local 3721 for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]

Investigator

cc: Ms. Laurie D'Amico, Treasurer
Mr. Jeff Lockwood, NYSUT Manager of Accounts & Reporting