

MEMO

TO: Derrick Osobase
FR: Jody Calemine
DA: March 15, 2023
RE: Eligibility to Run for Office

Derrick,

President Shelton asked me to provide you with an analysis of your eligibility to run for CWA elected office to help clarify the issues. Below is my informal memo for you.

RELEVANT PROVISIONS

Article XV, Section 4(d) of the Constitution provides the eligibility requirement for running for elective office within CWA:

“Only members of the Union in good standing shall be eligible to vote or hold elective office.”

What “member of the Union in good standing” means is informed by the membership eligibility requirements as a preliminary matter. That is, the person must be eligible for membership under the Constitution. (“Good standing” is also dependent upon having met ongoing obligations of membership such as dues payments and compliance with the Constitution.)

Article V, Section 1 of the Constitution addresses general eligibility for membership in CWA and provides:

“Section 1. Eligibility

(a) All persons engaged in the communications field and other fields of endeavor, both public and private sectors, excepting those excluded by laws, shall be eligible for membership in the Union.

(b) All persons who are officers of labor organizations representing workers within the jurisdiction of the Union shall be eligible for membership in the Union.

(c) Members of the Union who are on leaves of absence from their employment or who are employed on a full-time or part-time basis by the Union or a Local or who are or may be retired for any reason may continue to be active members.”

Moreover, Article V, Section 2(a) of the Constitution provides the means by which membership is obtained:

“Membership in the Union is obtained and maintained through a chartered local.”

Each local has a charter issued by the National Union which defines its jurisdiction, typically covering employers and their geographies. A “field of endeavor” as described in Section 1 must be within the charter jurisdiction of the relevant local to qualify a person for membership. See, e.g., Executive Board Decision concerning the Membership Status of Pat Collins, District Legal Counsel, Executive Board Minutes, January 4-5, 1986.

Therefore, as a general matter, in order to be eligible for membership in CWA, an individual must be employed by an employer within the charter jurisdiction of the local; meet one of the criteria listed in Article V, Section 1(b) or (c); or be employed in a bargaining unit that a local is attempting to organize.

Setting aside the latter avenue for eligibility, as you are not in a unit that a local is attempting to organize, and given that criteria 1(b) and 1(c) rely on 1(a) being met first, the fundamental rule is: a person must be or have been employed by an employer in the jurisdiction of the Local to be eligible for CWA membership.

The charter of CWA Local 6186 provides jurisdiction as follows:

“Over all work performed by employees of the State of Texas; over all work of food service employees at Stephen F. Austin University, Nacogdoches, Texas, excluding managers, bookkeepers, unit clerk and payroll clerk; KLRU Production Workers Guild, Austin, Texas; Supershuttle (Drivers and Dispatchers) in Austin, Texas; and such other jurisdiction as may be assigned by the Executive Board of the Union.”

ANALYSIS AND PRECEDENT

The analysis of your CWA membership eligibility is straightforward: Were you employed by any of the employers listed in the charter jurisdiction when you sought to obtain membership?

If the answer is no, then you would not be eligible for CWA membership and therefore not “a member of the Union in good standing” eligible to run for elected office.

I note that the charter suggests that the Executive Board could assign further jurisdiction to the Local (“such other jurisdiction as may be assigned...”); however, I understand your employment during all relevant periods to be either with the Local or with the National Union. The Executive Board would never assign a Local membership jurisdiction over its own employees or over the

employees of the National Union, for obvious company-dominated-union, inherent-conflict-of-interest reasons. CWA membership may only ever be maintained while employed by the Local or the National Union, not obtained because of such employment.

There are at least two prior Executive Board precedents supporting this analysis.

In 1986, the Executive Board ruled on the status of Pat Collins, a District counsel who was not an employee of CWA and did not come from a unit under a Local's charter jurisdiction but nevertheless sought elected office. The Board minutes explain:

Pat Collins, District Legal Counsel, appealed her request for CWA membership eligibility. The Executive Board acted as follows:

It is the determination of the Executive Board of Communications Workers of America that CWA District 5 Counsel Patricia A. Collins is not eligible for membership in Communications Workers of America. She does not meet the eligibility of Article V of the Constitution for various reasons. She is not employed in a "field of endeavor" within the charter jurisdiction of Local 5503.

She is not employed in a bargaining unit which CWA seeks to represent.

She is not an employee of the Union, and, in fact is a party to a written legal retainer agreement providing that she "will not be an employee of CWA" but will function only as a retained independent legal practitioner.

Were this not the case, **employment by CWA could not create membership eligibility. It would only permit the continuation of active membership if it existed at the time of employment.**

MOTION: Move that Pat Collins is not eligible for membership in Communications Workers of America under the CWA Constitution.

Motion Adopted

Executive Board Decision concerning the Membership Status of Pat Collins, District Legal Counsel, Executive Board Minutes, January 4-5, 1986 (emphasis added.)

In 2019, the Executive Board considered the question of whether Rafael Navar was eligible to run for elected office. Navar had been an employee of the National Union, resigned his position, and soon thereafter declared his candidacy for elected office. Given that Navar had never been employed by a

unit represented by a Local before becoming employed by CWA, the question was whether he was eligible for membership. Over the course of several months, Navar cured this problem by obtaining employment with an employer under the jurisdiction of the Local from which he then obtained membership and began paying dues. The Board minutes explain:

CWA General Counsel Pat Shea began with a recap, reviewing the report presented to the board in February 2019, seeking a determination on whether an individual who has declared a candidacy for an Executive Board position is actually eligible to run. She reviewed CWA's policies on membership, including becoming a new member of a local, noting that all membership stems from belonging to a local. She then reported on attempts to obtain the facts surrounding Rafael Navar's claim of membership in UPTE-CWA Local 9119. **Since that time, Navar has submitted additional information including a paycheck stub showing dues paid to the local for a position at the University of California.** The board was asked to vote on whether Navar is not a member in good standing, as specified in the CWA Constitution. Members discussed in detail the circumstances around Navar's claim...

The Executive Board voted, and the motion failed with an 8 to 6 vote, Mr. Navar IS a member in good standing.

Executive Board Decision on Membership Eligibility – Rafael Navar, Executive Board Minutes, May 16, 2019 (emphasis added). The position that Navar obtained as an employee of the University of California was within the Local's jurisdiction.

Following these precedents, the facts of your case as I understand them put you in the same position as Pat Collins, ineligible, unless and until the employment issue is cured, in which case your position would be more like Navar's.

I'm also sharing this memo with General Counsel Angela Thompson. If there is anything that I am missing, either facts or law, that could change this analysis, please let me, Angela, or President Shelton know.