



February 16, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor (the Department) on November 2, 2022, alleging that the Amalgamated Transit Union (ATU) Local 587 (Local 587 or the union) violated Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 481 - 483, in connection with the April 20, 2021, primary election.

The Department investigated your allegation and has concluded that there was no violation of the LMRDA that may have affected the election outcome.

You alleged that the Local 587 election committee denied you the right to campaign freely in uniform during non-work time in non-work areas of employer worksites. This allegation implicates Section 401(e) of the LMRDA, which provides every member with the right to support the candidate of one's choice without being subject to penalty, discipline, or improper interference or reprisal of any kind, 29 U.S.C. § 481(e). In addition, a union must provide office-seekers a reasonable opportunity to campaign as part of its obligation to provide adequate safeguards to ensure a fair election under Section 401(c). 29 U.S.C. § 481(c) and 29 C.F.R. § 452.79.

The investigation revealed that on April 6, 2021, while you were campaigning on your break during a work shift, election committee member Christine Kautzman informed you that the election rules did not permit you to campaign while wearing your uniform. One witness reported seeing you campaigning on a later occasion while wearing your uniform. You also acknowledged that, after being informed of the rule, you wore a campaign button on your uniform while working and on break until the end of the election. The button was approximately three inches in diameter and contained words to the effect of, "[REDACTED] for President." Apart from informing you that Local 587's election rules prohibited campaigning in uniform, the election committee took no other action to prevent you from campaigning.

The investigation disclosed that the Local 587 election committee viewed the uniforms, purchased using an employer-provided voucher as employer property, which could not be used to promote the candidacy of any candidate under the LMRDA. You pointed out and the investigation confirmed that once an employee used the voucher to purchase approved work items, including uniforms, those items became the property of the employee. The election committee explained that candidates could campaign during their breaks if they changed out of their uniform shirt or completely covered the uniform shirt with another garment. You stated that you did not choose to campaign during your breaks after April 6 because you did not think that the time period of the break, five to ten minutes, permitted you to change in and out of your uniform shirt. However, the investigation disclosed that other candidates, when informed of the rule, did choose to change out of their uniform shirt and continue campaigning. While the union's rule was not required by the LMRDA under these circumstances, the investigation disclosed that the rule was applied to all candidates without discrimination.

The investigation revealed that you took advantage of opportunities that the union provided to campaign during the election period: your candidate statement was included in a union election pamphlet that was sent to all the members; you campaigned in person at membership meetings; and you were able to post campaign flyers on designated white boards and leave additional flyers on tables at close to 20 of the approximately 30 jobsites. The investigation also revealed that there were other opportunities to campaign that you chose not to take. You did not choose to send any campaign mailings. Nor did you come to work sites to campaign on your days off as at least one candidate did. You indicated during your interview that you did not arrive prior to your shifts or stay late to campaign when you would have had time to change out of your uniform because you did not want to campaign during your off-duty personal time.

You alleged that the election committee's rule did not affect your opponent, the incumbent president, and was potentially enacted to benefit him, because he was a full-time employee of the union who did not wear a uniform and, therefore, would not have been required to change clothes before campaigning at worksites. When interviewed, the incumbent stated that he did not actively campaign, send campaign literature to members, take time off to campaign, or visit worksites for campaigning during the 2021 election. Nor did the investigation reveal any evidence that the incumbent campaigned at employer jobsites where not having to change his uniform shirt could have placed him at an advantage.

Under these circumstances, the investigation established that the union provided you with a reasonable opportunity to campaign and that the election committee's rule did not constitute unlawful interference with your right to support your own candidacy. For the reasons set forth above, it is concluded that your allegation does not constitute a violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file in this matter.

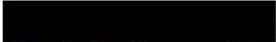
Sincerely,



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Chief, Division of Enforcement

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