

U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
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July 07, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on May 27, 2020, with the Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the runoff election of officers conducted by the Association of Professional Flight Attendants (APFA) on March 9, 2020.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that your opponent, the incumbent president, used union resources and violated union rules when she altered an APFA-produced video of the presidential debate. You objected that she edited your debate performance and then posted the edited video to her Facebook page, New Vision 2020 ("NV2020"). Section 401(e) of the LMRDA requires unions to conduct their elections in accordance with their constitution and bylaws. 29 U.S.C. § 481(e). Section 401(g) of the LMRDA provides: "No moneys received by any labor organization . . . shall be contributed or applied to promote the candidacy of any person in an election subject to" Title IV of the LMRDA. 29 U.S.C. § 481(g). The Department's regulations interpret Section 401(g) as prohibiting union officers from using "union funds, facilities, equipment, stationery, etc., to assist them in . . . campaigning." 29 C.F.R. § 452.76. However, as outlined in 29 C.F.R. § 452.74, "Section 401(g) does not prohibit impartial publication of election information. Thus, it would not be improper for a union to sponsor a debate at which all candidates for a particular office are afforded equal opportunity to express their views to the membership prior to an election."

The Department's investigation revealed that APFA produced the full video of the presidential debate between all candidates, and provided the full video equally to both the membership and the candidates. The investigation further established that there was no provision in the APFA's constitution or bylaws prohibiting candidates from editing the debate video. The opening frame of the 2020 APFA Presidential Debate video included the videographer's statement: "Alteration of the original recording is prohibited." You asserted that this statement supports your contention that the union's policy prohibited candidates from altering the video in any way and that this disclaimer required that the video be shown in its entire unedited version.

The Department's investigation revealed that, in 2010, the APFA did have language in its Policy Manual regarding the use of the Presidential Debate Video during the annual election of officers. The manual stated that the debate video must only be used in its entirety and in its original format. However, when the policy was amended in March 2016, the amendment inadvertently omitted the prohibition against altering the video. This clerical error was not discovered until the annual officer election in February 2020. Consequently, the APFA's Policy Manual applicable to the 2020 national election did not include any prohibition against altering the presidential debate video. Moreover, there was no evidence that your opponent used union funds to alter or post the video. There was no violation of Title IV of the LMRDA.

With respect to your second allegation, you alleged that [REDACTED], National Strategic Communications Specialist and candidate for the office of APFA National Secretary, improperly used union resources when he assisted the National Balloting Committee (NBC) by writing and distributing "Hotline" messages to the membership regarding the election. You asserted that [REDACTED] should not have been involved in sending these messages because he was a candidate in the election. Section 401(g) prohibits the use of union resources to campaign for union office. 29 U.S.C. § 481(g). It does not prohibit the use of union resources to distribute impartial information about the election. 29 C.F.R. § 452.74.

The Department's investigation found that it was Black's job responsibility as the appointed APFA National Strategic Communications Specialist to distribute NBC communications. Moreover, it was revealed that Black did not draft the messages but only distributed them as part of his longstanding official union duties. Further, the Hotline messages Black distributed to the membership contained impartial factual information regarding the election and did not advocate for or disparage any candidate. There was no violation of Title IV of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this matter.

Sincerely,



Tracy L. Shanker
Chief, Division of Enforcement

cc: Ms. Julie Hedrick, International President
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Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management