



July 07, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint to the Department of Labor (Department) dated September 24, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of Communications Workers of America (CWA or International) at its convention concluded on July 31, 2019.

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

You alleged that the union failed to apply consistent standards to local union officer and delegate elections, as well as to other merged national union officer elections. Specifically, you objected to the fact that local unions and merged national unions applied their constitutions instead of the CWA Constitution. You objected to the fact that some regular locals have ex officio delegates while merged locals do not have such positions and elect their delegates as "at large" positions. The inconsistency is also manifested within regular locals, such as your Local 1033, which elected its highest-ranking officer to serve as an ex-officio delegate whereas other locals were free to elect delegates. You alleged that inconsistency permeated sector vice president elections which vary from one sector to another. You believe the above practices demonstrate the inconsistency in election procedures and violate Sections 401(e) and 401(f) of the LMRDA. Section 401(e) requires "unions to conduct their elections in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title." 29 U.S.C. § 481(e). Section 401(f) provides in relevant part that "[w]hen officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provision of this title." 29 U.S.C. § 481(f)

The International held its quadrennial election of officers at its July 29-31, 2019 convention in Las Vegas, Nevada. Commencing in 1987, national unions that merged

into CWA entered into a merger agreement whereby each merged national became a sector of the International. Each sector and its own locals follow that sector's constitution and bylaws as well as the CWA Constitution. Art. VX § 2(b). Although some merger agreements state that the sector and its locals are to follow that sector's constitution even if those provisions conflict with that of the CWA Constitution, all locals, including sector locals, are required to follow the CWA Constitution with respect to the election of International and local officers, delegates, and alternate delegates. Art. XV § 2(b), 4(d), and 4(e). For example, the CWA Constitution requires the elections of International President and International Secretary-Treasurer to be conducted by secret ballot of delegates who were similarly elected by secret ballot in their respective locals, including sector locals. Art. XV § 1; Art. XV § 4(e). Sector presidents are elected by secret ballot and serve as sector vice presidents on the International Executive Board. Art. XV § 2(b); Art. IX § 1. International officers, including the International President, International Secretary Treasurer, and sector vice presidents, among others, are prohibited from serving as delegates to and voting at the convention. Art. VIII § 12.

The CWA Constitution imposes requirements for the conduct of local officer elections, including sector locals, while affording *all* locals the discretion to conduct those elections applying their own governing documents. All locals, including sector locals, are required to adopt bylaws and rules to govern the nomination and election of local officers, the selection of an election committee to conduct all elections and referenda in accordance with the CWA Constitution and federal law, among other requirements. Art. XV § 4(a). Some non-sector locals designate the highest-ranking officer to serve as ex-officio delegate to the convention. This practice is common in union officer elections and does not violate the LMRDA, unless the union's governing documents prohibit such a practice. 29 C.F.R. § 452.109. The CWA Constitution allows locals the discretion to designate the highest-ranking officer to serve as an ex-officio to the International convention. Art. XV § 4(a).

Although the CWA Constitution allows all locals to adopt their own bylaws and rules for governing their elections, the CWA Constitution requires all locals, including sector locals, to follow specific election procedures. All locals, including sector locals, are required to elect by secret ballot its officers, delegates and alternate delegates to the International Convention. Art. XIII § 9 (j) and (k); Art. XV § 4(e). All locals, including sector locals, are required to vote for the three top local offices: president, secretary treasurer, and delegate. Art. XV, § 3(b). All locals, including sector locals, must nominate and elect their local officers "during the months of September, October, November, and December." Art. XV § 3(a). All locals, including sector locals, follow the same rules regarding the number of delegates to which they are entitled. Art. VIII § 4.

With respect to delegate elections, the number of delegates allocated to each local, including sector locals, is based on the number of members within each local during a

specified time period. Art. VIII § (a)(1-4) and (b). The CWA Constitution also permits locals to elect alternate delegates and determine the number of delegates the local will send to the convention, but the local's delegation cannot exceed the maximum number of delegates provided under the CWA Constitution. Art. VIII §§ 4(c) and (d). All locals, including sector locals, are required to certify the names, addresses, and voting strengths of its delegates and the name of the delegate chair. Art. VIII § 6. Votes from all delegates, including those in sector locals, are divided equally among the delegates with left over votes assigned to the chair of the delegation of that local. Art. VIII § 4(d). No local, including a sector local, is permitted to participate in the convention if it owes per capita taxes. Art. VIII § 4(e).

The Department's position is that whether a delegate is "ex officio" or "at large" and whether that policy varies from local to local, or sector to sector, does not violate the LMRDA, provided that all delegates who were sent to the convention were elected to their position (either ex officio or at-large) in accordance with the LMRDA. The investigation disclosed that basic rules for the election of delegates who were sent to the convention, and the election of International President and Secretary, were consistent with the CWA Constitution and LMRDA. There was no violation.

You alleged that the nominations of International President and International Secretary-Treasurer were not conducted in accordance with the CWA Constitution because they were not nominated by a delegate from the convention floor and were declared the winners without calling for additional nominations for each of those offices. During the Department's investigation, you acknowledged you did not attend the convention and did not speak to anyone who attended it. Section 401(e) requires that a reasonable opportunity shall be given for the nomination of candidates. 29 U.S.C. § 401(e).

The CWA Constitution requires that nominations for International President, International Secretary-Treasurer, and At-Large Diversity Executive Board Member be made from the convention floor, followed by their election by delegates. Art. XV § 1; CWA Guidelines for 2019 National Officer Elections (Guidelines), Art. I. The nominations for district vice presidents shall be made from the convention floor of the meeting of delegates whom they represent. Guidelines, Art. I. The Department's investigation disclosed that the Election Guidelines were read from the convention floor prior to the commencement of nominations. One of the rules provided that where a nominee is unopposed, that person wins by acclamation. The investigation revealed that both the International President and International Secretary-Treasurer were nominated separately on the convention floor, and each nomination was seconded. The presiding officer then made three calls for additional nominations, and after receiving no further nominations for either office, closed the nomination for each office. Thereafter, delegates voted to accept the nominations of the unopposed nominees. In accordance with the election rules that were read at the beginning of nominations, the

nominated officers were declared the winners by acclamation. The remaining offices for which there were more than one nominee proceeded to separate secret ballot elections. The International provided members a reasonable opportunity to nominate and be nominated at its convention. There was no violation.

You alleged that Election America may have conducted tainted local elections in District 1's jurisdiction based on your assertion that Election America improperly conducted Local 1033's last election by denying observers their rights. Local 1033's members work for the State, which is expressly excluded from coverage under the LMRDA. *See* 29 U.S.C. § 402 (e). Consequently, even if a complaint had been filed by you or any other Local 1033 member, the Department would have no jurisdiction to investigate Local 1033's 2017 election. However, the Department does have jurisdiction to investigate the election of delegates who will in turn elect International officers, as is the case here. *See* 29 U.S.C. §§ 482(a) and 482 (d). The investigation disclosed that District 1 has 228 locals under its jurisdiction and sent 223 delegates from 99 locals to attend the 2019 International Convention. Election America conducted no election for any other local under District 1's jurisdiction. Based on the Department's investigation, which was limited by the lapse of two years since Local 1033's 2017 election, the Department found no credible evidence that Local 1033 violated Title IV in the conduct of its election of delegates *vis a vis* the International Convention.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred that may have affected the outcome of the election, and I have closed the file in this matter.

Sincerely,

A large black rectangular redaction box covering the signature of Tracy Shanker.

Tracy Shanker  
Chief, Division of Enforcement

cc: Christopher Shelton, President  
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Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management