



November 3, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on June 16, 2021, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of Unit Chairperson conducted by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Local 1102, on May 3 and 5, 2020.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the Act that may have affected the outcome of the election. The following is an explanation of this conclusion.

You alleged that Article 6, Section 19 of the UAW Constitution permits only retired members who pay dues and are in good standing to vote in the election for Unit Chairperson, but Local 1102 permitted ineligible retired members to vote in that election. Section 401(e) of the LMRDA requires a union to conduct its election of officers in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e); 29 C.F.R. § 452.2. The investigation found that Article 6, Section 19 of the UAW Constitution states in relevant part, "[a]ny member in good standing who is retired, shall be entitled to a retired membership status which, without being required to pay membership dues during the period of such retirement, shall entitle [him/her] to all privileges of membership except the right to vote in elections conducted pursuant to Article 19, Section 3 [contracts]; Article 45, Section 2 [stewards and committeepersons]; and Article 50, Sections 1 and 5 [strikes]."

Based on a literal reading of Article 6, Section 19 of the UAW Constitution, this provision expressly prohibits retired members from voting on matters concerning contracts, stewards and committee persons, and strikes, but is silent concerning the eligibility of such members to vote in an election for Unit Chairperson. The eligibility of retired members to vote for this office is governed by Article 6, Section 19 (2) of the Interpretations Section of the UAW Constitution. This provision reads in relevant part, "[i]n units where the bylaws do not provide for a substantial complement of [unit] officers, retired members would not be entitled to vote for Unit Chair . . . since the primary function of [this] individual[] is to serve as [an] official[] of the Bargaining/Negotiating Committee."

The Department's review of the Local 1102 bylaws found that, other than the position of Unit Chairperson, the bylaws make no provision for unit officers in Local 1102 (*e.g.*, Unit President, Unit Vice President, Unit Recording Secretary, *etc.*) and no such officers serve in the local. Therefore, the bylaws do not provide for a substantial complement of unit officers. Further, the Local 1102 Unit Chairperson serves on the Executive Board solely as an official of the Bargaining/Negotiating Committee. The primary function of this officer is to negotiate and enforce the collective bargaining agreement and to resolve grievances. Therefore, retired members are not entitled to vote for Unit Chairperson under Article 6, Section 19 (2) of the Interpretations Section of the UAW Constitution.

However, the Department's investigation found that Local 1102 permitted six retired members to vote in the election for Unit Chairperson and that their votes were included in the vote tally, in violation of Article 6, Section 19 (2) of the Interpretation Section of the UAW Constitution and section 401(e) of the LMRDA. This violation, however, did not affect the outcome of the election. In the election for Unit Chairperson, a candidate was required to receive at least 79 votes to obtain a majority of the votes needed for election to office. The incumbent and prevailing candidate for Unit Chairperson received 93 votes and his two opponents received 35 votes and 27 votes, respectively. Thus, even if the six retiree votes were deducted from the 93 votes received by the winning candidate, that candidate still would have received 87 votes, exceeding the majority votes (79) needed for election to office. Thus, there was no violation of the LMRDA that may have affected the outcome of the election.

Also, you alleged that the Election Chairperson denied your request to inspect the membership mailing list that was used to mail the election notice to retired members. Section 401(c) of the LMRDA provides, "every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment." 29 U.S.C. § 481(c); 29 C.F.R. § 452.71 (emphasis added).

Thus, section 401(c) of the LMRDA limits a candidate's right to inspect a membership mailing list to situations where the bargaining agreement requires membership in the union as a condition of employment. The investigation found that Local 1102 members are not subject to any such bargaining agreement. Therefore, section 401(c) of the LMRDA does not afford you a right to inspect Local 1102's membership mailing list. Also, neither the UAW Constitution nor the Local 1102 bylaws afford you that right. Further, the investigation found that Local 1102 did not permit any candidates or members to inspect the membership mailing list. The Act was not violated.

In addition, you alleged that the incumbent Unit Chairperson made campaign telephone calls to members at their homes during the election. Section 401(g) of the LMRDA prohibits the use of union resources to promote the candidacy of any person in an election of union officers. 29 U.S.C. § 481(g); 29 C.F.R. § 452.73. Thus, election campaigning must not involve the expenditure of funds in violation of section 401(g). *See* 29 C.F.R. §§ 452.76, 452.78. The investigation did not disclose that the Unit Chairperson made unlawful campaign telephone calls to members during the election. In fact, you stated during the investigation that you did not witness the Unit Chairperson engage in any such activity during the election. Instead, you only heard a few members talking about the Unit Chairperson being worried that he might lose the election and that he used a cell phone to call members and solicit their votes. However, you were unable to provide the Department with the names of any such members.

Further, the Unit Chairperson stated during the investigation that he does not have a union-issued cell phone and uses his personal cell phone to conduct union business. He further stated that he has not campaigned for Unit Chairman during the past fifteen years that he has held that office, and that he did not campaign in person or make campaign telephone calls to any members during the election, including phone calls to former members of the Local 1102 executive board and the bargaining committee. The Act was not violated.

In addition, you alleged that the union did not mail election notices to retired members and members laid off due to the COVID-19 pandemic because only six retired members voted in the election. Section 401(e) of the LMRDA requires a union to mail notice of the election to each member at his or her last known home address not less than 15 days prior to the election. 29 U.S.C. § 481(e); 29 C.F.R. § 452.99. Thus, a union must take reasonable steps to maintain and update its mailing addresses of members.

The Department's investigation found that Local 1102's financial secretary used the membership tracking software, Roberts Custom Software (RCS), to maintain and update the membership mailing lists. The investigation disclosed that the employers informed the union whenever new employees were hired. The financial secretary met with these individuals and obtained the home addresses and other contact information of those employees who wanted to join the union. The financial secretary entered that information into the RCS and updated the information as necessary. In addition, the union solicited updated contact information from members during membership meetings and other membership activities.

The investigation disclosed that, at the time of the election, Local 1102 had 250 active members and 250 retired members. According to the local's financial secretary, in early April 2020, he purchased 500 postage stamps that he used to mail the election notices to all members, including active members, retirees, members on lay-off, and members on disability leave. The election notice was also posted at the three employer facilities; the

notice included the telephone numbers of the election chairpersons and instructed voters to contact them if voters had questions concerning the election.

Despite Local 1102's best efforts to keep its membership mailing list updated, a total of 18 of the 500 election notices were returned undeliverable and were received by the union after the election. However, the Department's review of the election records showed that the names of ten of these eighteen members were checked off the voter eligibility list, indicating that they voted in the election. Also, the investigation found that the current home addresses for another four members were the same as their mailing addresses on file with the union around the time of the election.

In addition, you stated during the investigation that an additional eight members did not receive election notices in the mail. The investigation found, however, that six of these members voted in the election and that the current home address for one other member was the same as his mailing address on file with the union around the time of the election. On these facts, the evidence supports a finding that Local 1102 made reasonable efforts to keep its mailing list current. The Act was not violated.

Finally, you alleged that the election committee failed to procure a letter from the International Union confirming that retirees were eligible to vote in the 2020 election. This allegation is not covered by Title IV of the LMRDA. Thus, even if this allegation were true, the Act was not violated.

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

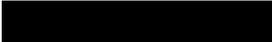
Sincerely,



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