



November 3, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor on June 21, 2021. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481, occurred in connection with the March 2021 general election of officers and election of United Association (UA) convention delegates for Plumbers Local 1.

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

You alleged that the union instituted a more restrictive nomination procedure than was used in past elections. Specifically, you alleged that, in past elections, members were permitted to accept nominations by letter within five days of their nomination. However, in the March 2021 election, the union only permitted members who were “working out of town” to accept a nomination by written letter. You allege that this procedural change impeded candidates’ ability to develop an opposition slate.

Section 401(e) of the LMRDA requires that unions provide a reasonable opportunity for the nomination of candidates. As the LMRDA does not prescribe particular nomination procedures, a union may employ any nomination method that will provide a reasonable opportunity for making nominations. 29 C.F.R. § 452.57(a). Whether a particular procedure satisfies the LMRDA’s requirements depends on the particular facts of the case, and whether the procedure’s application makes nominations so difficult as to deny the members a reasonable opportunity to nominate. *Id.* § 452.57(b). In certain circumstances, a requirement that members be present at the nomination meeting in order to be nominated for office might be considered unreasonable under the Act. *Id.* § 452.59.

The investigation confirmed that the union changed its procedures for absentee nominees. Past elections required in-person candidate nominations, but allowed absentee nominees to accept their nomination by letter within five days. In-person

nominations were made at a single nominations meeting; in 2018, this meeting was one and a half hours. In 2021, the union required that all nominations be made and accepted in person, “unless the member is working as a traveler in another UA local union’s jurisdiction.” Absentee travelers were permitted to accept their nomination in writing within five business days after nominations closed. The 2021 in-person nominations period was expanded, running from 8:00 a.m. to 5:00 p.m. on Wednesday, February 17 and Thursday, February 18, 2021.

The investigation found that the union notified members of the changed procedure through several means. The formal rules were first announced in the December 2020 and January 2021 membership meetings. Nominations information was posted on the union website and social media. On January 20, 2021, the union mailed a nominations notice to union members’ most recent address, highlighting the in-person nomination requirement in bolded, fully capitalized font. The nominations notice explained that the expanded nomination period followed New York’s State of Emergency prohibiting large, in-person gatherings and stated that all individuals entering the local’s headquarters at any time must wear a face covering.

The Department’s investigation found that the union made these procedural changes to avoid delays in finalizing the ballot. Interviewed union officials explained that the union was concerned about receiving written nomination acceptances, given the United States Postal Service delays during the COVID-19 pandemic. Before changing the procedure, the union president consulted with counsel to ensure that limiting written acceptance to travelers was consistent with the union’s constitution and bylaws. The union did not anticipate that the added limitation on mailed nomination acceptances would have a detrimental impact, given its limited past use and the expanded in-person nominations period.

During the investigation, only two individuals were identified as having been deterred from accepting their nominations because of the in-person acceptance requirement. The investigation indicated that the union afforded the first individual an opportunity to make special arrangements regarding when he would accept his nomination in person. However, he did not appear. When interviewed, this first individual explained that he did not prioritize his nomination for a convention delegate position and that he was wary of traveling somewhere in person because he had not received a COVID-19 vaccine. The second individual did not appear to accept his nomination because of inclement weather. The investigation found no other individuals who cited inclement weather as preventing their attendance in person.

The circumstances under which union members could accept candidate nominations, including the limitation on acceptance by writing, were reasonable and the union provided ample notice of the change in procedures. The union announced the updated

nominations procedure through several means, including mailed written notice emphasizing the in-person nomination requirement. The union's receptiveness to accommodating the time of a nominee's in-person acceptance demonstrates that members received notice of the requirement and had adequate time to make arrangements or form an opposition slate. The exponential increase in the nominations period (from ninety minutes to eighteen hours over two days) reduced the need for members to accept nominations by mail because it expanded opportunities to appear in person and accommodated scheduling or weather related conflicts. Further, the union instituted adequate safeguards to minimize the risk of contracting COVID-19 during the in-person nominations meeting. Consistent with New York State requirements, all members appearing to accept nominations were required to wear a face covering. The two-day nominations acceptance period also created greater opportunities for social distancing. Considering these circumstances, the union provided a reasonable opportunity for its members to accept nominations.

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,

[REDACTED]

[REDACTED]

Chief, Division of Enforcement

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