



December 20, 2022



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor (the Department) on August 19, 2022, 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 November 2022 election of officers of the International Executive Board (IEB) of the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).

Pursuant to a Consent Decree dated December 14, 2020, the United States District Court for the Eastern District of Michigan appointed an outside entity (the UAW Monitor) to conduct the UAW's internal affairs, including international officer elections, for the ensuing six years. Pursuant to Sections 24 and 45 of the Consent Decree and Section 9-2 of the 2022 UAW International Officer Election Rules dated May 11, 2022, the UAW Monitor is the initial and final authority for all UAW union officer election protests.

On February 21, 2022, you submitted a pre-election protest to the UAW Monitor stating your belief that retirees should be permitted to run for IEB positions. On March 15, 2022, the UAW Monitor requested that UAW President Ray Curry interpret the UAW Constitution to determine whether it permits retired members to run for the IEB. On March 24, 2022, President Curry interpreted the UAW Constitution to prohibit retired members from running for the IEB. Based on President Curry's interpretation, on April 6, 2022, the UAW Monitor denied your pre-election protest. You appealed the UAW Monitor's decision to the Adjudications Officer on April 12, 2022. The Adjudications Officer denied your appeal on April 22, 2022.

On April 27, 2022, you appealed to the District Court for the Eastern District of Michigan, which affirmed the Adjudications Officer's denial of your appeal on July 1, 2022. On July 12, 2022, you filed a motion for reconsideration of your April 27 appeal; the court denied the motion on July 20, 2022. On August 1, 2022, the UAW Monitor notified you that you were ineligible to run for the position of IEB President because you are a retiree.

Concurrently with the above-described pre-election protest, you appealed President Curry's interpretation within the UAW. On April 30, 2022, you appealed President Curry's interpretation to the IEB. The IEB denied the appeal on June 9, 2022. On June 29, 2022, you appealed the IEB's decision to the Convention Appeals Committee (CAC). The CAC denied your appeal on July 22, 2022. Subsequently, you filed a complaint with the Department on August 19, 2022.

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

LMRDA Section 401(e) provides that officer elections shall be conducted in accordance with the constitution and bylaws of the organization. 29 U.S.C. § 481(e). You alleged that President Curry violated the UAW's Constitution by publishing a constitutional interpretation at the request of the UAW Monitor rather than a UAW member. The UAW Constitution at Article 13 Section 8, which grants the President interpretation powers, states in relevant part that "[t]he International President shall decide disputes or questions in controversy including all questions involving interpretation of this Constitution." This text contains no condition that a member must request an interpretation, nor do the UAW Public Review Board (PRB) cases you cite impose this requirement. The Department's investigation revealed that the UAW Monitor – charged by court order with overseeing the International Officer Election – was unsure whether retired members were eligible to hold IEB officer positions, as the Monitor found the constitution's text was ambiguous. The UAW Monitor thus asked President Curry to issue an interpretation clarifying this issue. This question was sufficient to invoke President Curry's power to interpret the constitution. There was no violation.

You also alleged that there were conflicts of interest that should have precluded President Curry's interpretation of the constitution and the CAC's affirmation of that interpretation. The UAW Constitution not only allows the UAW President to interpret the constitution when questions or controversies arise but requires him to do so. It does not provide him the option of delegating this power regardless of his candidacy in an election. Furthermore, the UAW Constitution provides that the CAC has jurisdiction to consider and decide all appeals submitted to it, and the UAW Constitution does not prohibit incumbent officers or their representatives from assisting the CAC or participating in CAC meetings. There was no violation.

You also alleged that the President's interpretation is unreasonable because the UAW Constitution unambiguously permits retired members to run for the IEB. The Department accepts interpretations that the responsible union official or governing body consistently places on a union's constitution unless the interpretation is clearly unreasonable. 29 C.F.R. § 452.3. The UAW Constitution at Article 6 Section 19 states that retired members are entitled "to all of the privileges of membership," with a few

enumerated exceptions. While the section does not, on its face, restrict retirees from running for the IEB, longstanding UAW policy, which you acknowledge, prohibits retirees from running for local union positions because they involve collective bargaining and grievance handling responsibilities. Furthermore, no retired members have run for the IEB in past elections. In 2018, retiree [REDACTED] attempted to run for the IEB but failed to secure a nomination. Given the past prohibition on retired members holding union office and the lack of retired candidates in previous IEB elections, the President's interpretation is not clearly unreasonable.

You argue that the above reasoning is invalid because retirees influence collective bargaining even without IEB positions. You note that retirees serve as delegates to the UAW's Special Bargaining Conventions, where they set the union-wide collective bargaining agenda. But IEB members are more closely involved with collective bargaining than are convention delegates. IEB members supervise UAW representatives assigned to national bargaining units and become directly involved in negotiations when necessary. Under Article 13 Section 25 of the UAW Constitution, the IEB formally adopts collective bargaining agreements, and the UAW President is responsible for IEB members who aid in collective bargaining. It is thus reasonable that the UAW would exclude retirees from IEB officer positions without prohibiting them from serving as Special Bargaining Convention delegates.

LMRDA Section 401(e) provides that every member in good standing shall be eligible to be a candidate and to hold office, subject "to reasonable qualifications uniformly imposed." 29 U.S.C. § 481(e). For several reasons, you claim that the requirement that IEB candidates be active members is an unreasonable candidate qualification.

One basis on which you allege that the requirement is unreasonable is the UAW giving insufficient notice of the requirement to members. 29 C.F.R. § 452.53 provides that "[a]n essential element of reasonableness is adequate advance notice to the membership of the precise terms of the requirement." Members had adequate notice of the requirement. As described, the UAW has had a longstanding prohibition on retired members running for local office and no retirees have been nominated for the IEB in the past. As such, retired members could not have reasonably expected to be eligible to hold IEB office.

You also argue that the qualification is unreasonable because it renders 59% of the UAW membership ineligible to run. For support, you cite federal cases in which candidate-eligibility requirements that rendered 38-93% of the unions' respective memberships ineligible to run were found unreasonable. *Wirtz v. Hotel, Motel & Club Emps. Union, Local 6*, 391 U.S. 492 (1968); *Hodgson v. Local 18 Operating Eng's*, 440 F.2d 485 (6th Cir. 1971); *Hodgson v. Local 610 United Elec., Radio & Mach. Workers of Am.*, 342 F. Supp. 1344 (W.D. Pa. 1972). These cases are distinguishable from the present case. In

*Local 18*, the court found unreasonable a requirement that local union members pay a \$75–90 initiation fee to transfer their local-union membership to parent-union membership to become eligible to run for officer positions. *Local 18*, 440 F.2d at 486–88. Crucial to the Court’s reasoning was the requirement’s having no connection to the fitness of members for the relevant offices. *Id.* Similarly, in *Local 610*, the court found that rules prohibiting workers in certain jobs from running for certain local-officer positions were unreasonable because there was no connection between the jobs’ qualifications and the requirements of the positions. *Local 610*, 342 F. Supp. at 1348. In the instant case, the UAW has been clear that it prohibits retired members from running for IEB offices because it has reason to think they may not be able to effectively serve. The rule is a manifestation of the UAW’s policy of excluding retired members from positions with collective bargaining duties because “retirees’ primary interests extend to retirement benefits, potentially to the detriment of or in conflict with active employees’ interests in wage rates, hours, working conditions, and other terms of active employment.” President Curry’s March 24, 2022, Letter to the IEB at 1. *Local 18* and *Local 610* are distinguishable from the UAW candidate eligibility requirement at issue and do not compel the Department to find the UAW’s rule unreasonable.<sup>1</sup>

You also suggested that the rule is not uniformly imposed because current IEB officers are allowed to run despite not working at the trade. Section 401(e) requires that candidate qualifications be uniformly imposed. 29 U.S.C. § 481(e). The Department’s investigation established that the UAW candidate eligibility rules do not contain a working-at-the-trade requirement. Rather, to be eligible to run as a candidate for office, a person must be an active union member. There was no evidence of non-uniform application of the union’s candidate qualification requirements. As such, there is no violation.

Finally, you claimed that your ineligibility determination violates the LMRDA because you were allegedly forced into retirement as a result of the UAW’s requirement that staff members retire at age 65. While it is possible that an age restriction on candidates could violate Section 401(e), the Department’s investigation found that the UAW imposes this restriction in its capacity as an employer; the UAW does not prohibit active members over 65 from running for IEB officer positions. There was no violation.

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<sup>1</sup> *Wirtz v. Local 6*, is also distinguishable, but not because there was no connection between the candidate eligibility requirement and the officer requirements. In *Local 6*, the Supreme Court found unreasonable a rule that rendered 93% of a local union’s membership ineligible to run for office. *Local 6*, 391 U.S. at 504. That rule permitted only members who had held union office to run, thereby limiting eligibility to incumbents and officers that incumbents appointed, effectively allowing the incumbent power to eliminate competition. *Id.* The UAW’s rule excluding retirees from running for IEB office does not create a similar problem.


For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election. Accordingly, the office has closed the file in this matter.

Sincerely,



Tracy L. Shanker  
Chief, Division of Enforcement

cc: Ray Curry, President  
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, Associate Solicitor  
Civil Rights and Labor-Management Division