



January 19, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (DOL) on February 24, 2022, alleging that Service Employees International Union (SEIU) Local 121RN violated Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) when it conducted a union-ordered rerun of its May 13, 2021 election of officers.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that no violation of the LMRDA occurred. Following is an explanation of this conclusion.

You alleged that the SEIU International Election Board (IEB) erroneously instructed the Local 121RN Election Committee to rerun the May 13, 2021 election for five officer positions following a protest filed by a Local Executive Board member. Section 402(a) of the LMRDA requires that a union member exhaust internal union remedies before filing a Title IV complaint with the Department. This requirement was included in the LMRDA to give unions a chance to correct election problems and deficiencies themselves, thereby preserving a maximum amount of independence and encouraging responsible self-governance. In furtherance of this legislative objective, the Department accords a certain degree of deference to a union's decision to hold a new election in response to internal union election protests. The Department will not seek to reverse a union's remedial decision to hold a new election unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the LMRDA and holding a new election was unreasonable.

The Department's investigation established that Local 121RN approved five members as candidates in the May 13 election—LaShaun Smith-Favors, Jacqueline Gray, Desire Duvall, Jacinta Lincke, and Samantha Alegria—but then deemed the five ineligible to hold office after the May 13 election in response to an internal election protest. On May 26, 2021, Executive Board Member Kathleen Gregg filed a protest with the Local

121RN Election Committee alleging that the five members did not meet the union's eligibility requirements for holding office because they were behind on their dues payments. On June 7, 2021, the Local 121RN Election Committee decided not to seat the five members, a decision that was supported by Local 121RN President Nina Wells. Nevertheless, on July 13, 2021, the Local 121RN Executive Board voted to seat the five members. Following this decision, President Wells and Executive Board Member Gregg filed election protests and internal charges regarding the matter with SEIU President Mary Kay Henry. By letter dated October 25, 2021, President Henry directed Local 121RN to conduct a rerun election for the five races, and you appealed. The IEB considered your appeal and determined that it presented no grounds for reversing President Henry's decision. Thereafter, you filed your complaint with the Department.

You alleged that the union based its decision to rerun the May 13, 2021 election on an improperly applied continuous good standing candidate eligibility requirement. Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate for office, subject to reasonable qualifications uniformly imposed, and that elections shall be conducted in accordance with the constitution and bylaws of the labor organization. 29 U.S.C. § 481(e). Unions are permitted to implement continuous good standing requirements so long as they are reasonably and uniformly applied to candidates. *See* 29 C.F.R. § 452.37(b). Article XV, Section 2 of the SEIU Constitution states that no person may be eligible for nomination if they have not been a member in continuous good standing in the local union for at least two years and paid the full dues required for working members of the local union within each month when due, and that upon the request of a Local Executive Board, the International President may waive Local eligibility requirements for good cause shown. Article 8, Section E of the Local 121RN Constitution states that, to be eligible to be a candidate for office in the local union, a nominee must have been a member in continuous good standing of the local for at least two years immediately preceding the nomination.

The Department's investigation revealed that, for various reasons, the five disqualified candidates had failed to make the minimum required dues payments during the two years preceding the election. Therefore, at the time of the election, they did not meet the union's continuous good standing requirement. The Election Committee at first told the five members that they could pay back the outstanding dues after the election using future stipends (if they were elected to the executive board positions), and allowed them to run for office. On May 13, 2021, the five nominees were elected. However, on June 7, 2021, the Election Committee informed them that they could not assume office because their dues remained in arrears. The Election Committee admitted that they were wrong in proposing a payment plan using future stipends and retracted this option.

The Department's investigation confirmed that the union's decision to order a rerun was not based on the application of a rule that violates the LMRDA, nor was it contrary to the LMRDA's principles of union democracy. Moreover, the investigation did not reveal any evidence that the decision was made in bad faith. Although the Election Committee may have erroneously informed the candidates that they could remedy their dues delinquencies *after* the election, the union did not act unreasonably by rerunning the election after it realized this advice was inconsistent with the union's governing documents. Thus, the union's decision to rerun the election does not provide a basis for legal action by the Department.

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


Sincerely,



Tracy L. Shanker  
Chief, Division of Enforcement

cc: Mary Kay Henry, International President  
Service Employees International Union  
1800 Massachusetts Avenue, NW  
Washington, DC 20036

Nina Wells, President  
SEIU Local 121RN  
1040 Lincoln Avenue  
Pasadena, CA 91103

, Associate Solicitor  
Civil Rights and Labor-Management Division