



September 27, 2022

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on June 2, 2022, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act), occurred in connection with the election of officers held by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW), Local 400, on September 29, 2020.

The Department 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 LMRDA that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that the voting arrangements that Local 400 made for members working at the Adient Bridgewater Interiors facility (BWI) did not afford them a reasonably convenient opportunity to cast their ballots. Section 401(e) of the LMRDA provides that members in good standing of labor organizations have the right to vote for or otherwise support the candidates of their choice. 29 U.S.C. § 481(e). This statutory protection of the right to vote implies that a member must have a reasonable opportunity to vote. 29 C.F.R. § 452.94. Thus, there is an obligation on the labor organization to conduct its election of officers in such a way as to afford all its members a reasonable opportunity to cast ballots.

The Department's determination of whether members have been given a reasonable opportunity to vote must be made by reviewing the voting arrangements employed in light of the particular circumstances of the local union and its membership. During such review, the issue is not whether the union could have employed different procedures or made voting more convenient for some persons. The issue is whether the arrangements made by the union were so lacking in democratic principles and so unfair to the members affected, that the impact was to deny those members a reasonable opportunity to vote. The investigation found that, consistent with the voting requirement of section 401(e) of the LMRDA, the voting arrangements employed by Local 400 for the 2020 election afforded the BWI members a reasonable opportunity to

vote, even if the union could have employed different procedures or more convenient voting arrangements. The LMRDA was not violated.

Specifically, you alleged that members scheduled to work at the BWI facility on the day of the election were denied the right to vote because the union provided limited polling hours. The investigation revealed that the election committee arranged the polling hours for the BWI members to correspond to their various shift schedules. On September 29, 2020, the day of the election, the BWI polls were open from 10:30 a.m. to 7:00 p.m. BWI members assigned to the A and C units of the DT production shifts, and the A and B units of the P552 production shifts were scheduled to work that day. The work hours for the DT A shift were 5:30 a.m. to 3:30 p.m.; DT C shift 4:30 p.m. to 3:00 a.m., P552 A shift 6:00 a.m. to 4:30 p.m., and the P552 B shift 6:00 p.m. to 4:30 a.m. Although the BWI polls were not open when the BWI members whose shifts started at 5:30 a.m. or 6:00 a.m. reported to work, the BWI polls did not close until 7:00 p.m. Therefore, these members were afforded an opportunity to vote after their shifts ended at 3:30 p.m. or 4:30 p.m. Further, BWI members whose work shifts started at 4:30 p.m. or 6:00 p.m., after the polls opened, could have voted prior to the start of their shifts. On these facts, Local 400 afforded the BWI members a reasonable opportunity to vote.

You also alleged that BWI members who were not scheduled to work on the day of the election were disadvantaged because it was inconvenient for them to make an extra trip to the polls and vote. As previously discussed, the LMRDA does not require a union to make voting more convenient for some persons. Instead, the statute requires unions to provide voting arrangements that afford members a reasonable opportunity to vote. The investigation found that the voting arrangements made by the union for the BWI members complied with that requirement. Any BWI member who wanted to vote, even if the member was not scheduled to work on the day of the election, could have traveled to the polling place, which was less than 5 minutes from the BWI facility, and voted. Local 400 afforded the BWI members not scheduled to work on the day of the election a reasonable opportunity to vote.

In addition, you alleged that BWI members assigned to both the A unit and the C unit of the P552 production shifts were scheduled four hours of training on the day of the election, in lieu of working their regular shift hours. You asserted that the training ended early, and these members were dismissed from work before the polls opened at 10:30 a.m., making it inconvenient for them to return to the polling site and vote. The investigation found that only the BWI members assigned to the A and B units of the P552 production shift worked on the day of the election. No BWI members assigned to the C unit of that production shift were scheduled to work that day. In addition, regardless of whether BWI members were dismissed from work before the polls opened because the training ended early, such members could have stayed at the BWI worksite and then driven or walked to the polling site after it opened at 10:30 a.m. and voted.

Further, any BWI members who left the BWI facility after the training was completed and did not return to the polls and vote, chose to do so. Local 400 afforded the BWI members a reasonable opportunity to vote.

Further, you alleged that there was a discrepancy between the voting hours for members assigned to the Ford Romeo Engine Plant (Ford Romeo), and those assigned to the BWI facility. The investigation disclosed that the polling hours for the Ford Romeo polling site were 6:00 a.m. to 6:00 p.m., a total of 12 hours, and the polling hours for the BWI polling site were 10:30 a.m. to 7:00 p.m., a total of 8.5 hours. You asserted that the extended polling hours for the Ford Romeo members made it easy for them to vote during a break or lunch time, or prior to or after their assigned shift. The investigation found that the polling hours for all BWI members accommodated their work shifts and work hours and afforded BWI members a reasonable opportunity to vote before, during, or after their work shifts. Further, the LMRDA does not require unions to provide members working on various shifts with an equal number of hours within which to vote. Instead, the Act requires unions to provide members in each shift with a reasonable opportunity within which to cast a vote. *See* 29 C.F.R. 452.94. The investigation found that such opportunity was afforded to all BWI members.

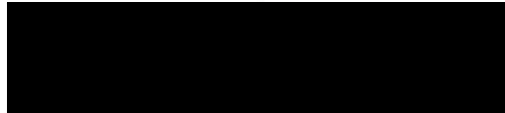
Finally, you alleged that BWI members were not given an equal opportunity to vote because they were not allowed to have on-site polling at the BWI plant and were required to travel to the UAW Region 1 Pavilion (Pavilion) to vote but members assigned to the Ford Romeo plant were permitted to vote in the cafeteria at that plant. The investigation disclosed that in previous general officer elections, BWI's polling site has been the cafeteria at the BWI plant. Union officials stated during the investigation that the local was unable to provide on-site voting at the BWI plant for the 2020 election because BWI management denied Local 400's request to use the cafeteria for voting as a result of social distancing requirements and other restrictions due to the COVID-19 pandemic.

As a result, the union relocated the BWI polling site to the Pavilion. The investigation found that the Pavilion is located less than a quarter mile from the BWI facility and is within walking distance of that facility. In fact, Local 400 regularly uses the Pavilion to conduct union business. Further, the LMRDA does not require unions to afford all members the same voting arrangements in union officer elections. Instead, the Act requires that eligible members be given a reasonable opportunity to vote in such elections. 29 U.S.C. § 481(e). The investigation found that Local 400 afforded all BWI members a reasonable opportunity to vote by providing a polling place at the Pavilion, which was in close proximity to the BWI facility. The LMRDA was not violated. Lastly, you alleged that a staff member at a UAW Region 1 office had been diagnosed with the COVID-19 virus, but you did not hear or read any public announcement from

the UAW to the BWI membership about the out-break. Even if this allegation were true, such matter is not covered by the LMRDA. The LMRDA 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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Chief, Division of Enforcement

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