



September 30, 2022

Patrick Chornoby
[REDACTED]

Dear Mr. Chornoby:

This Statement of Reasons is in response to your December 29, 2021, complaint to the Department of Labor, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the election of union officers conducted on December 1, 2021, by Local 295 (local or Local 295), American Postal Workers Union (National).

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department concluded that there were no violations that may have affected the outcome of the election.

You made three allegations related to the local's meeting attendance candidacy qualification. First, you alleged that the local's waiver notice of the meeting attendance rule was so poorly worded that potential candidates would not understand that requirement would not be enforced. You identified [REDACTED] as one member who did not run for office because of his confusion regarding the waiver notice.

Section 401(e) provides in relevant part, that every member in good standing shall be eligible to be a candidate and to hold office, subject to, among other things, reasonable qualifications uniformly imposed. 29 U.S.C. § 481(e). Title IV recognizes the right of unions to prescribe minimal standards for candidacy qualifications, including meeting attendance rules. 29 C.F.R. §§ 452.35 and 452.38. A meeting attendance rule, like other candidate qualifications, must be reasonable, and section 452.36 of the Department's regulations set forth factors that should be considered when assessing the reasonableness of a qualification. 29 C.F.R. § 452.36(b). One of the factors in considering whether a meeting attendance rule (or other candidate qualification) is valid is the impact of the rule, that is, the number or percentage of members who would be rendered ineligible by its application. 29 C.F.R. § 452.38; *see also* 29 C.F.R. § 452.36(b)(3) ("The impact of the qualification, in light of the Congressional purpose of fostering the broadest possible participation in union affairs."). However, regardless of whether a union applies or waives a meeting attendance rule, the union is required to conduct its election in a manner that provides adequate safeguards to ensure a fair election. 29 U.S.C. § 481(c).

The investigation disclosed that the Election Committee posted a notice dated September 21, 2021, on union bulletin boards at employer United States Postal Services (USPS) work facilities. The notice advised members that, in accordance with Article X, Section 4 of the local constitution, nominees must have attended at least 5 membership meetings within the 12 months before nominations in order to be eligible for candidacy in the upcoming union officer election. On September 24, 2021, the Election Committee posted a revised notice stating that "Due to COVID 19 restrictions meeting requirements were not met in accordance with Article X, Section 4." The investigation disclosed no evidence that any member was confused or in doubt about the waiver of the meeting attendance requirement, including your witness, [REDACTED].

Specifically, the investigation disclosed that the day prior to the posting of the waiver notice, Election Committee Chair [REDACTED] responded to [REDACTED] question regarding the meeting attendance rule, informing [REDACTED] that the rule would be waived; [REDACTED] and [REDACTED] work at the same USPS facility. In addition, [REDACTED] attended Local 295's nomination meeting held on October 3, 2021, where he was nominated for office but he left the premises prior to his nomination. Further, the Election Committee sent via certified mail to each nominee who did not attend the nominations meeting, a packet advising how to accept one's nomination. Finally, the Election Committee called [REDACTED] and asked him whether he accepted his nomination. His response was that "he did not know." He did not elaborate further and hung up abruptly. [REDACTED] knew that the meeting attendance rule was waived, knew that he was nominated, and chose not to run for office. There was no violation.

Second, you alleged that the meeting attendance rule did not even apply to the election of officers at issue. You believe that the meeting attendance rule applies only to delegate elections. Section 401(e) provides, in relevant part, that a union conducts its elections in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of Title IV. 29 U.S.C. § 481(e). Further, the interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable. 29 § C.F.R. § 452.3.

Article X, Section 4(a) of the local constitution states that "All members of this Local shall be eligible to hold office" in regard to union officer elections. Article X, Section 4(b) provides that "All members are eligible to represent this Local at any National, State or Local convention provided they have fulfilled attendance requirements. All nominated members must have attended at least five (5) membership meeting within the twelve months prior to nominations, except in the year when there is an election being conducted at the State convention, there will be no meeting requirements to attend the State Convention." The Election Committee interpreted these provisions to mean that local officers must meet the meeting attendance rule to qualify for office. The Local President agreed with the Election Committee, but ultimately, did not believe it

was fair to impose this requirement given the effect of COVID-19 on membership meetings. Whether your interpretation or the local's interpretation of Article X is the correct one is not critical to the resolution of this allegation because the meeting attendance rule was not applied or enforced during the election at issue. In any event, the Local President's interpretation is not unreasonable. There was no violation.

Third, you alleged that the meeting attendance rule was not applied in a uniform manner when the election committee chair told the Team Roz slate that its members were ineligible to run for office because none of them met the requirements of the meeting attendance rule. As noted above, section 401(e) requires that candidacy qualifications be applied uniformly. The investigation did not substantiate your allegation. Election Committee Chair [REDACTED] denied ever informing any member of the Roz slate that its members were ineligible. Further, the only conversation Election Committee Chair [REDACTED] had with any Roz slate member was before formal slates had been comprised and after the meeting attendance rule had been waived. Walker stated that he informed Team Roz members who called him that the meeting attendance rule had been waived. The investigation showed that nine of the fifteen Team Roz members won their elections. The waiver of the meeting attendance rule was applied uniformly. There was no violation.

It is concluded that no violation of the LMRDA occurred that could have affected the outcome of the election. Accordingly, the office has closed the file in this matter.

Sincerely,

[REDACTED]

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Chief, Division of Enforcement

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