



May 23, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on March 8, 2019. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the November 16, 2018 officer election conducted by the American Postal Workers Union, Local 390 (Local 390).

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 there was no violation of the LMRDA that may have affected the outcome of the election.

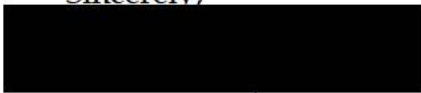
Section 401(c) of the LMRDA requires unions to provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c). You alleged that the union failed to provide adequate safeguards because there was no sign-in book when the polls initially opened. The Department's investigation revealed that the Election Committee members working the polling station checked voters' names off of two membership lists; once they learned voters needed to sign in, they used a piece of loose leaf paper as a sign-in sheet and retroactively added to the sheet the twenty-eight members who had already voted based on whom they had checked off on the membership lists. From then on, the Election Committee members asked voters to print and sign their names on the sign-in sheet. The Department confirmed that the number of ballots cast matched the number of voters checked off on the membership lists and listed on the sign-in sheet. Additionally, the Department contacted several of the twenty-eight members whose names were retroactively added to the sign-in sheet, and these members confirmed they voted in the election. The Department's investigation did not reveal any evidence that ineligible members voted. As such, this allegation does not constitute a violation of the LMRDA.

Section 401(e) of the LMRDA requires that elections be conducted in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(e). Article IV, Section 3(E) of Local 390's bylaws states that new officers will be sworn in at the November meeting. You alleged that Local 390 violated Section 401(e) when it failed to swear in newly elected officers in accordance with Article IV, Section 3(E) of the bylaws. The Department's investigation revealed that, although four of the newly elected officers were in attendance at the November 16, 2018 membership meeting, only one of those newly elected officers was sworn-in. Although this may constitute a technical violation of the LMRDA, this violation could not have affected the outcome of the election.

Lastly, Section 401(g) of the LMRDA prohibits the use of employer time or resources to campaign during an election. 29 U.S.C. § 481(g). Consistent with Section 401(g), Rule 7 of the "Election and Campaign Rules" distributed to all candidates in the election states that campaigning on union or postal time or property is prohibited. You alleged that a candidate violated Section 401(g) by visiting postal facilities other than her worksite and leaving campaign literature in the breakrooms. The Department's investigation revealed that candidates are permitted to distribute election literature in non-work areas (i.e., breakrooms) on non-work time, and there was no election rule of which candidates were notified that prohibited candidates from entering other postal facilities. With respect to your allegation, the Department confirmed that the candidate was not on work time when she visited the other postal facilities; thus, this allegation does not constitute a violation of the LMRDA. The Department did discover, however, that, on one occasion, this candidate showed a co-worker her campaign literature while they were both on employer time. Although this constitutes a violation of Section 401(g), it only affected one member who voted; given that the smallest margin of victory in the election was eleven votes, this did not affect the outcome of the election.

For the reasons set forth above, it is concluded that, to the extent any violations occurred, there was no effect on the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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