



April 10, 2020



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor (Department) on June 14, 2019. The complaint alleged 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 of the American Postal Workers Union, AFL-CIO (APWU) National Headquarters, which was completed on October 8, 2019.

The Department conducted an investigation of your allegations. As a result of the investigation, with respect to each of your allegations, the Department has concluded that no violation occurred which may have affected the outcome of the election.

First, you alleged that a notice was improperly sent less than 30 days prior to the deadline to determine voter eligibility in the October election to cash-paying dues members indicating that they would need to provide proof of their good standing. You claim that this notice should have been sent earlier and was sent late with the intent to discourage retiree members from voting. Section 401(e) of the LMRDA provides that every member in good standing shall have the right to vote. It further requires that elections "be conducted in accordance with the constitution and bylaws" of the union, "insofar as they are not inconsistent with" the LMRDA. Under Article 3, Section 4(b) of the APWU Constitution and Bylaws, full dues paying retiree members are eligible to vote and run for office. Article 12, Section 2 of the Constitution requires that members must be in good standing on the last day of the first full pay period in June of the election year in order to be eligible to vote.

The Department's investigation established that, in order to vote in the October election, members were required to be in good standing as of June 21, 2019. Although there is no requirement in the Constitution or the election rules that APWU issue a notice to delinquent cash-paying dues members prior to the election, APWU, as a courtesy, sent a notice to approximately 800 cash-paying dues members during the week of

May 20, 2019, indicating that their good standing was not confirmed and that they would need to present proof of their good standing in order to be eligible to vote. Many retiree members are cash-paying dues members. The Department determined that APWU mistakenly sent this notice to 214 cash-paying dues members who were in good standing, but that the letter was only intended to be sent to cash-paying dues members who were delinquent in their dues. The election committee subsequently sent a follow-up notice on May 29, 2019 to the cash-paying dues members who were current in their dues instructing them to disregard the prior notice. The Department's investigation did not uncover any evidence indicating that this error deterred eligible members from voting. Furthermore, as the notice was sent as a courtesy, there was no requirement that the notice be sent by a particular date. Accordingly, there was no violation.

You next allege that non-incumbent candidates were improperly required to sign a release allowing the union to conduct a "consumer and/or investigative consumer report," and that incumbent candidates were not required to undergo a similar background check. Section 401(e) of the LMRDA provides that "every member in good standing shall be eligible to be a candidate" for union office, subject to "section 504 and to reasonable qualifications uniformly imposed." In relevant part, section 504(a) prohibits any person convicted of a variety of crimes from serving as a union officer for a period of 13 years following the conviction. It is a violation of Section 504(b) for another person to willfully retain the barred person in a prohibited capacity.

The Department's investigation disclosed that the union instituted a background check requirement for candidates in 2010 in order to comply with the requirements of Section 504 of the Act. While the authorization form used for the October 2019 election requested candidates' permission to conduct a full "consumer and/or investigative consumer report," the union only contracted with the third party vendor to perform a more limited criminal background check. Furthermore, the union permitted candidates to limit the scope of the authorization to cover only a criminal background check. For candidates who contacted the union regarding the background check, the union communicated to them that they were only seeking to conduct a criminal background check, not a full investigative consumer report. In addition, the Department's investigation did not uncover any evidence that the scope of the background check requirement prevented any member from seeking office.

The Department confirmed, however, that incumbent candidates were not similarly required to undergo background checks. While this non-uniform application of the union's background check requirement violated the LMRDA, the Department's investigation did not uncover any evidence that candidates were disqualified as a result of the background check or for failing to submit a full authorization. Accordingly, this violation did not affect the outcome of the election.

Your additional allegations were determined to be either not properly exhausted or not covered by the LMRDA.

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

Sincerely,



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Chief, Division of Enforcement

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