



May 28, 2020

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (the Department) on November 4, 2019, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by International Union of Painters & Allied Trades (IUPAT), Painters, AFL-CIO District Council 36 (DC 36) on June 29, 2019.

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.

You alleged that [REDACTED], then-Business Representative and candidate for Business Manager of DC 36, improperly sent a campaign mailer to the membership of Painters Local Union 510 (Local 510), a component of DC 36, that resembled the official election ballot and featured candidate endorsements from union employees. Section 401(g) of the LMRDA prohibits the use of union or employer funds to promote any person's candidacy in an election. 29 U.S.C. § 481(g). However, the LMRDA permits union officers and employees to support the candidates of their choice as long as no union or employer funds are used to do so. *See* 29 C.F.R. § 452.76.

The investigation disclosed that [REDACTED] distributed a campaign mailer that used the general format of the election ballot and had specific candidate names bolded and others whited out. The mailer stated that four named individuals – business representatives and field representatives referred to as “agents of Local Union 510” – endorsed the bolded candidates, including [REDACTED]. The mailer was privately funded by [REDACTED], however, and indicated that the endorsement came from specific individuals, and not Local 510 itself. The mailer was also clearly distinguishable from the union's official ballot: it did not include the words “official ballot” or similar language; a

campaign slogan was printed on the top; and it did not contain any signifiers of the union such as a seal or logo. There was no violation of the LMRDA.

You also alleged that members of Local 510 were denied the opportunity to vote in the DC 36 election because DC 36 allowed in-person voting only at a single polling location, during a designated timeframe, for each local union. Section 401(e) of the LMRDA ensures a basic right to vote for all members in good standing. 29 U.S.C. § 481(e). As the Department's regulations explain, the statutory right to vote requires that unions provide members with a reasonable opportunity to vote. This may require the establishment of multiple polling sites or the use of mail ballots when the union's membership is widely dispersed. Unions may also meet this obligation by extending the time period for voting to accommodate members who might otherwise be prevented from voting because of conflicting work schedules. 29 C.F.R. § 452.94; *see* 29 C.F.R. § 452.95 (a union must provide absentee ballots or alternative means of voting if it knows in advance that a substantial number or a particular segment of the members will not be able to exercise their right to vote in person).

The investigation revealed that the DC 36 election was held on Saturday, June 29, 2019, at a separate location for each of the 11 component unions. Local 510 members were able to vote at the Sheet Metal Union Hall in San Francisco, the site of their monthly membership meetings, at any point between 7:00 a.m. and 5:00 p.m. Members reside within Local 510's jurisdiction in the greater Bay Area, covering Northern California from Sacramento to Monterey. Furthermore, members regularly commute to San Francisco for their membership meetings and work assignments. There was no evidence of work conflicts on the day of the election and the polls were open for ten hours. Furthermore, notice of the election was mailed in March 2019, thus affording members ample notice of the date and time.

You specifically alleged that three members were prevented from voting because they were on a work assignment out of the state, unwilling to drive approximately 50 miles to cast a vote in person, and working that day, respectively. The investigation failed to substantiate these accounts or otherwise demonstrate that DC 36's polling practices – as implemented through Local 510's polling site and time – denied any member the right to vote. Even if true, the slimmest margin of victory in a race was 1,138 votes, far surpassing the roughly 700-800 members in Local 510. There was no violation.

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. Accordingly, the office has closed the file in this matter.

Sincerely,



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Chief, Division of Enforcement

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