



April 9, 2024



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (Department) on August 14, 2023. You alleged that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. §§ 481-483, as made applicable to elections of federal sector unions by 29 C.F.R. § 458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. § 7120(d), occurred in connection with the election conducted by the Federal Education Association (FEA) – Europe Area Council, an affiliate of the National Education Association (NEA).

The Department conducted an investigation into your allegations. As a result of the investigation, the Department concluded that there was no violation of the LMRDA that may have affected the outcome of the election.

You alleged that the winning candidate for the position of Europe Area Director, Anita Lang, violated the LMRDA by using NEA and FEA logos in her campaign materials and improperly referenced her experience and connection to the union. As examples, you submitted various images of Facebook posts.

Section 401(g) of the LMRDA provides that “no moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of any employer shall be contributed or applied to promote the candidacy of any person in an election.” 29 U.S.C. § 481(g). “Moneys” is broadly interpreted to include almost anything of value. A union’s logo may constitute “moneys” where the logo has market value, such as when the logo is protected by trademark, and where the union restricts the use of its logo in some manner (such as requiring permission before the logo may be used for any purpose), and where the manner of its use implies that the union has endorsed the candidate(s). The use of a logo on campaign literature may constitute a violation of Section 401(g) in certain circumstances, such as where the union claims a proprietary interest in the logo and prohibits its use and where the manner of its use implies the union has endorsed the candidate(s). The acronym “NEA” is a listed trademark with the United States Patent and Trademark Office, and the FEA’s website indicates that its logo is also trademarked. The investigation confirmed that the FEA’s

campaign rules state that campaign material cannot include the FEA or NEA logos. An FEA officer explained that the union has a longstanding practice of not allowing the use of union logos on candidate campaign material, the purpose of which is to avoid the appearance of an endorsement from the NEA or FEA.

The investigation substantiated that Lang maintained a Facebook page called “Anita Lang for Europe Area Director” that she created for campaign purposes. On this page, she also shared links to NEA articles about topics and resources unrelated to the election. Among the posts you identified, there were five containing NEA or FEA logos. Two of these posts contained links to NEA articles, with a logo appearing on the graphic for the article. Two of the posts had an image with a cartoon drawing, the words “Little Miss Never Misses an Election,” and the NEA logo. One post was a photo of Lang’s ballot, which had the FEA logo at the top. In her posts, Lang added text (often discussing or promoting herself) above the images, but her words were clearly separate from the images with the logos. As such, her posts did not inappropriately imply endorsement from the NEA or the FEA.

Section 401(e) of the LMRDA requires that elections be conducted in accordance with a union’s constitution and bylaws, but it does not have a similar requirement as to local election rules that are not part of the union’s governing documents, like the rule regarding the use of the logos at issue here. However, Section 401(c) of the LMRDA requires that unions provide adequate safeguards to ensure a fair election. Pursuant to this provision, unions may not engage in disparate candidate treatment with respect to application of rules.

OLMS’ investigation revealed there were differing viewpoints within the union about whether the presence of the union logos on some of Lang’s Facebook posts was a violation of the election rules. In its decision regarding your complaint, the FEA Board of Directors determined that the campaign activities did not constitute a violation of the union’s own rules or the Department of Labor’s rules governing union elections. One FEA officer interviewed by OLMS explained that while the depiction of the logos on the Facebook campaign page technically violated the election rules, the posts did not suggest endorsement by the union. Another officer opined that some of the posts noted above did not violate the union’s rules because Lang was not campaigning in them, and they do not imply any endorsement from the FEA or NEA.

Regardless of whether the depictions of the logos on Lang’s Facebook site may have constituted a violation of the FEA’s election rules, it did not result in an actionable violation of the LMRDA. For a violation to be actionable under the LMRDA, there must be evidence that it may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). The investigation confirmed that the Facebook posts at issue did not create a reasonable inference that the unions endorsed Lang’s candidacy. Any members that viewed the

posts would not have been influenced by a mistaken impression that Lang had obtained the FEA's or NEA's endorsement. The investigation also did not reveal that the union engaged in disparate candidate treatment.

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 in this matter. You may obtain a review of this dismissal by filing a request for review with the Director of OLMS within 15 days of service of this notice of dismissal. The request for review must contain a complete statement of facts and the reasons upon which your request is based. *See* 29 C.F.R. § 458.64(c).


Sincerely,



Tracy L. Shanker  
Chief, Division of Enforcement

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