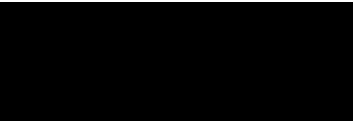




February 23, 2017



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the U.S. Department of Labor on July 24, 2015 alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the regularly scheduled election of officers conducted by the California Federation of Teachers (CFT) on March 21, 2015.

The Department of Labor conducted an investigation of your complaint. As a result of the investigation, the Department has concluded that no violation of the LMRDA occurred that may have affected the outcome of the election.

You alleged that you were prevented from campaigning for vice president and speaking before the convention body, which was an impediment to your election. Section 401(c) of the LMRDA requires, in pertinent part, that unions provide adequate safeguards to ensure a fair election. Among the safeguards encompassed by this requirement is an equal opportunity to campaign; specifically, "if the privilege of addressing the convention is accorded to any of the nominees, it must be accorded to all nominees..." See 29 C.F.R. 452.79. The CFT constitution, Article IV § 1(a); bylaws, section 12; and Convention Rules, Section VII(C), provide that nominations can be made in advance of the convention or from the floor. The bylaws and Convention Rules specify, by position, the length of time each candidate has to make a campaign speech at the convention; each candidate for the 24 vice president positions is allowed to make a two minute speech. Bylaws, Section 12(b); Convention Rules, Section VII(C)(6). Candidates are also allowed to designate an alternate speaker. Bylaws, Section 12(b); Convention Rules, Section VII(C)(6),

The investigation revealed that you ran for one of the 24 vice president positions as part of the "Unity Slate" of candidates. You and the 23 other vice presidential candidates running on that slate agreed to allow one nominee to speak on behalf of the entire slate. You voluntarily ceded your right to speak, the union did not prevent you from speaking at the convention. Accordingly, there is no violation of the LMRDA.

You alleged that CFT failed to conduct its officer election by secret ballot in contravention of the LMRDA. In support, you alleged that the president of American Federation of Teachers Local 1931 instructed one of that local's delegates to sign a ballot and give it to the local president who would vote the ballot on the delegate's behalf. Although the LMRDA requires that local union officer elections be conducted by secret ballot, it does not make the same demand on intermediate bodies. Section 401(d) states that intermediate body elections can be conducted via either secret ballot among all members, or by delegates who themselves were elected by secret ballot to represent the members. So long as the delegates were elected by secret ballot, the election of intermediate body officers is not required to be secret as well. The investigation disclosed that CFT is an intermediate body, not a local labor organization, and its delegates were chosen by secret ballot. Ballot secrecy therefore was not required for CFT's officer election. Thus, no violation of the LMRDA occurred here.

You alleged that the union failed to provide adequate safeguards which resulted in voted ballots being placed into a box intended for blank ballots. As mentioned above, unions are required to provide adequate safeguards to ensure a fair election. The investigation revealed that two boxes were used, one for voted and one for blank ballots. Both boxes were monitored by the election committee at all times, and the committee reviewed the contents of the blank ballot box to ensure that no voted ballots were missed. In addition, the Office of Labor-Management Standards (OLMS) conducted a review of the election records and found no discrepancies. Therefore, we have concluded that no violation of the LMRDA occurred.

You alleged another adequate safeguards violation; specifically that ballot boxes were not properly secured from tampering. In support of your allegation, you cited your observer's assertion that ballots were handled in a manner that could have led to election tampering. During the investigation, your observer explained that the ballots could have been tampered with because a CFT staff member, rather than an election committee member, scanned the ballots and loaded the results into a spreadsheet. However, the investigation found no evidence of actual ballot tampering. Our investigation revealed that the ballot boxes were locked at all times or kept in a secure room. There was no violation of the LMRDA.

You alleged that the union failed to follow its own constitution and bylaws because it did not use an independent body to count the ballots. Section 401(e) of the LMRDA requires that union officer elections be conducted in accordance with the union's constitution and bylaws. The CFT Convention Rules specify in Section VII(C) that the election committee supervises the counting of ballots by an independent body and that the tally sheet be certified as accurate by the independent body designated by the election committee. Since 2003, the election committee's practice has been to designate

staff members who are not affiliated with the incumbent officers to serve as the independent body that assists with counting the ballots. The staff members were involved in scanning the ballots to tabulate the results, but election committee members checked the ballots against those results and determined that the spreadsheet was accurate. Even if the election committee's use of staff members in this way may have been inconsistent with the CFT election rules, absent any evidence of ballot fraud, tampering, or counting irregularity, such a violation did not affect the results of the election.

Your remaining allegations regarding other Unity Slate members' actions in contravention of the slate's general agreement are outside the scope of the LMRDA and therefore cannot support a finding of violation.

For the reasons stated herein, we have concluded that no violation of the LMRDA occurred which may have affected the outcome of the CFT officer election. Accordingly, the office has closed the file on this matter.

Sincerely,

[REDACTED]



Chief, Division of Enforcement

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bcc: LADODIS File: 520-6005722(02)  
OLMS/DOE//FPB N-5119//

<b>Initials</b>				
<b>Date</b>	02/09/2017	02/10/2017		
<b>Last Name</b>	DEMPSEY	HANLEY		
<b>Title</b>	DOE Inv.	DOE Chief		

Case String: 520600572202 LM: 512967 DOE Number: 8859