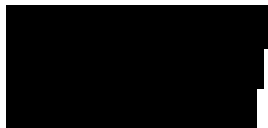




August 11, 2020



Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the Department of Labor (Department) on April 13, 2020, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the Amalgamated Transit Union (ATU), Local 241, on December 3, 2019.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to your allegations, that there was no violation of the LMRDA that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that the ATU constitution requires the Financial Recording Secretary Treasurer (FRST) of an ATU local union to collect all union dues and assessments on behalf of union members and, when necessary, any arrearages. You asserted that the FRST did not comply with this requirement by failing to collect all arrearages in your union dues and assessments. You further asserted that, as a result, you were prevented from satisfying the two-year good standing requirement for candidacy and you were disqualified from running for office.

Section 401(e) of the LMRDA requires a union to conduct an election of officers in accordance with its constitution and bylaws. 29 C.F.R. § 452.2. In addition, Section 401(e) of the LMRDA provides, in relevant part, that every member in good standing is eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed. 29 C.F.R. § 452.32.

To be a member in good standing of Local 241, an individual must remain current in their dues. Section 21.9 of the ATU constitution states that dues and assessments are payable on the first of the month and must be paid by the fifteenth of the month in order for a member to continue to be in good standing. Members who do not work during a particular month still are required to pay dues and assessments for that month

if they want to remain in good standing and eligible for candidacy. Section 13.12 of the ATU constitution prescribes the duties of the financial secretary of a local union, including the responsibility “to collect all monies due the local union.” According to you this provision required Local 241’s FRST to ensure that all your arrearages in union dues and assessment were paid up.

During the 2019 election, the union imposed a two-year good standing requirement for candidacy. The two-year qualifying period was from November 2017 to October 2019. Members were required to have all arrearages in dues and assessments paid by November 4, 2019, the day before the nominations meeting, to qualify for candidacy. During the investigation, you admitted you were aware of this rule. You also admitted that you knew that you had not paid four months of dues and one month of assessments while you were on sick or disability leave during the relevant two-year period.

Although you were aware of these delinquencies while you were on such leave, you stated that you did not submit any payment to the union to cover these arrearages before the November 5, 2019 nominations meeting. You further admitted that you were aware that a member on sick or disability leave is solely responsible for paying all monthly dues and assessments when there are no wages from which such dues or assessments can be paid. You could have made arrangements with the union to pay these arrearages before that deadline, but you did not. You did not remit a check to the union to cover the arrearages until December 2, 2019. You also could have contacted the union prior to the nominations meeting to ascertain whether there were any arrearages in your dues or assessments, but you did not. In addition, you could have accessed your employee online portal provided by your employer to verify whether you owed any back dues or assessments. The employee portal lists all monthly deductions made from your paychecks and the dates of such deductions, including deductions for dues or assessments as well as deductions for any arrearages. Your review of that information would have showed whether there were outstanding dues or assessments for any particular month or whether you were all paid up.

The Department’s review of your dues and assessment records confirmed that at the time of the nominations meeting you were delinquent in your payment of the April 2018 and May 2018 dues, and the August 2018 assessment. The investigation disclosed that your employer’s payroll system automatically deducts union dues from the first paycheck issued each month to a member and that any special deductions such as dues or assessments arrearages are withheld from the second paycheck of the month. However, you did not work during the months of December 2017 to May 2018 and July to August 2018 and therefore did not earn enough wages from which your dues could be deducted. Although your employer withheld dues or assessments from the vacation and holiday paychecks you received, it was not enough to cover all of your dues for the

relevant period. The investigation revealed that you did not pay any dues for the months of March 2018, April 2018, May 2018, and September 2018, or an August 2018 assessment. You had no wages for these months and, as a result, dues and assessments were not deducted.

Although the employer began deducting back dues from your wages when you returned to work in September 2018, those deductions were not enough to cover all the back dues you owed prior to the November 5, 2019 nominations meeting. At the time of that meeting, your April 2018, May 2018, and August 2018 arrearages still were outstanding and, therefore, you were not in good standing. For that reason, the union properly disqualified you from candidacy. The investigation disclosed that the union applied the two-year good standing candidacy requirement in a uniform manner. All members who were nominated for office but failed to meet that requirement were disqualified from candidacy and their names did not appear on the ballot, including two opposition candidates for FRST. There was no violation.

Finally, you alleged that the union improperly denied members an opportunity to nominate candidates for office because the union did not verify a nominator's eligibility until after the nominations meeting. Section 401(e) of the LMRDA provides that a union must provide a reasonable opportunity for the nomination of candidates. 29 C.F.R. § 452.55. The investigation showed that the union did not disqualify any nominee from candidacy because the nominee's nominator or the member seconding a nomination was not in good standing, including you. As discussed above, the union disqualified you from candidacy because you yourself lacked good standing (versus the individual who nominated you). There was no violation.

For the reasons set forth above, there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has dismissed your complaint and closed its file in this matter.

Sincerely,



Brian A. Pifer
Acting Chief, Division of Enforcement

cc: John A. Costa, International President
Amalgamated Transit Union, AFL-CIO
10000 New Hampshire Avenue
Silver Spring, MD 20903

Keith Hill, President
ATU Local 241
1613 S. Michigan Avenue
Chicago, IL 60616

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management