

Barbara C. Deinhardt
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May 22, 2025

DECISION

Protest I-01-2025vac (use of
employer resources)

By email dated May 10, 2025, Thomas Hopkins filed a protest alleging that Javier Oquendo violated the Election Rules by filing his nomination petitions while on paid TA time. According to the Election Committee, Mr. Oquendo delivered his petitions at 1:15 PM on Friday May 9. Mr. Hopkins provided no further evidence that Mr. Oquendo was on the clock at the time he delivered his petitions.

Mr. Oquendo stated that he was working at the East New York Depot that day, supervising the pick that was going on. He was on TA release time, as the Depot Chair. His shift was from 6:00 AM to 8:00 PM. He took his lunch break in the middle of the day to drive to the Union Hall to deliver his petitions. Because it looked like it would take longer than his lunch break, he called the AGM from the Union Hall to take him off the clock from 1:00 to 2:00, which he did. Mr. Oquendo provided a screenshot of his time record and the outgoing call to the AGM at 1:06 on May 9 in support of this defense. The Protester has not provided evidence that refutes Mr. Oquendo's assertion that he was not paid by the TA for the time he delivered his petitions.

Under the Election Rules, "No candidate for election shall accept or use any contributions or other things of value received from any employer, representative of an employer, foundation, trust, union or similar entity." Pursuant to this rule, no candidate or other member may campaign on time paid for by the Union or the TA. Any request for time off to campaign should be made in advance, whether to the Union or the TA. A member may not campaign on paid time and then request a change after the fact.

The Protester requests that the petitions be invalidated. Under the particular circumstances here, where the request for time off was made during the campaigning rather than in advance and invalidating the petitions would disenfranchise all of the members who signed the petitions, the remedy requested is denied. All members are cautioned that requests for time off to campaign must be made in advance.

Protest sustained in part.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article IV(B)(9) of the Election Rules and Article XXII of the International Constitution for the appeal to the International from decisions of Local Unions.

A handwritten signature in black ink, appearing to read 'Barbara C. Deinhardt'.

Barbara C. Deinhardt
Neutral Monitor

By email:
Thomas Hopkins
Javier Oquendo
Arthur Schwartz
Denis Engel
Elections Committee