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December 16, 2024

DECISION

Protest ST-13-2024 post (balloting irregularities)

By email dated December 12, 2024, Evangeline Byars filed several protests alleging 1) that there was a widespread issue of members reporting that they did not receive ballots after requesting them; 2) that on the morning of December 12, the day of the ballot count, there were over 600 ballots at the Post Office that were not collected and counted; 3) that there were discrepancies in challenged ballots, in that the AAA Daily Mail Log reported only three challenged ballots, while the actual number of challenged ballots was closer to 330; 4) the AAA failed to provide the number of duplicate ballots sent to members; 5) there was an unreasonable delay in posting the final vote tallies; and 6) the AAA failed to have slates sign off and certify the results of the election. She also requests a recount of the ballots in the Station Department because the results were “extremely close.”

As to the issue of members not receiving ballots, the Protester presents what appear to be 74 statements by members about not receiving ballots. Ms. Byars describes this evidence as illustrating the widespread failure of members to receive ballots. I disagree. Four of the statements are from the Protester herself, three of them saying she did receive a ballot and one saying she did not receive one. (A few other statements submitted are also duplicates.) Ten statements are from members who say they did in fact receive a ballot, either without or after calling AAA. 45 are from members who state they did not call AAA for a replacement ballot, most “because they did not have the number.” (Oddly, 9 of those also state that they received a replacement ballot.) Thus out of the 74 statements submitted, in at least

59, the member either got a ballot or never contacted AAA to request a replacement ballot. Of the other 15, a few stated they had called AAA and requested a ballot, but as of the time of the statement (some 11/29 or 11/30), they had not yet received a ballot. They may have received a ballot in time to vote. A few stated they called AAA and got a busy signal or no answer. None of the members who submitted the statements presented by the Protester called the Election Committee, even though Rule VI(F)(3) of the Election Rules states, "If a member who has timely requested a duplicate ballot by phone has not yet received it in the mail, they should contact the Elections Committee no later than 10 AM on Friday December 6, 2024." The process followed in this election was the same as in past elections.

As to the ballots at the Post Office on the morning of December 12, the Election Rules are clear that "voted ballots must be mailed so as to arrive at the AAA Post Office Box before 6:00 PM on Wednesday December 11, 2024." "No ballot which is received at the Postal Box after 6:00 PM on December 11, 2024 shall be counted." Therefore, the last ballot pickup was at 6:00 PM on December 11. The Rules do not provide for counting ballots that were postmarked by December 12, if not received by December 11. Any protest about that provision of the Rules is untimely.

The Protester contends that there were significant discrepancies between the AAA Daily Log and the actual number of challenged ballots. The Election Rules require that "[p]rotests regarding any alleged improper mail ballot count-day conduct must be presented in writing to the Neutral Monitor immediately, but no later than the completion of the counting of the ballots and the announcement of tentative results." This part of the protest is therefore untimely. Further, on the merits, as the Stronger Together Slate observer was advised on the morning of December 12, most so-called "problem ballots," e.g., duplicate ballots, ballots from a voter not on the membership list (NOL), or ballots with no identification, were included in the number of ballots received from a particular Division on the Daily Log. There were, however, three ballots where the voter not only removed his or her name and ballot control number, but also the identification of which Division the ballot was from. Therefore those three envelopes could not be attributed to any particular Division and were listed separately simply as problems. There is no discrepancy.

The Protester asserts that she has a right to a “daily register of all duplicate ballots sent to members or a complete count of replacement ballots issued.” There is no such right included in the Election Rules or federal law. However, the AAA has advised me that there was a total of 2161 duplicate ballots mailed out.

The Protester asserts that there was a delay in releasing the final results. At the conclusion of the ballot count at around 5:30 PM on December 12, the Neutral Monitor read aloud the results for the top four Union-wide offices, Departmental Vice-Presidents, Executive Board members, and Division Chairs. All other results were posted on the Election Committee website at approximately 4:00 PM on December 13. There was no unreasonable delay. This issue is now moot.

Finally, she asserts that she has a right to “sign off and certify the election results” and to be “given the required documentation to certify the results.” The Election Rules require that “[p]rotests regarding any alleged improper mail ballot count-day conduct must be presented in writing to the Neutral Monitor immediately, but no later than the completion of the counting of the ballots and the announcement of tentative results.” This part of the protest is therefore untimely. Further, there is no such right afforded by the Election Rules or federal law.

There is no conduct alleged that could impact the results of the election.

Protest denied.

As to the request for a recount, the only result in Stations that was “extremely close” was in the election for Convention Delegate. In that election, where there were 18 positions to be filled, the winning candidate with the lowest number of votes was Ashim Chanda from the Stronger Together Slate, who had 525 votes. The losing candidate with the greatest number of votes was Khokan Paul, from the Members F1rst Slate who had 523 votes. There has been no request from the Members F1rst Slate for a recount of that race. No other race was so close as to warrant a recount. The Vice-President position was won by 46 votes out of 1174, a margin of about 4%. I deny the request for a recount.

The Protester also asks where the counted ballots are being stored and where the unopened ballots retrieved from the Post Office on December 12 are being stored. All election materials, including the counted and unopened ballots, are being securely stored at the American Arbitration Association.

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.



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