

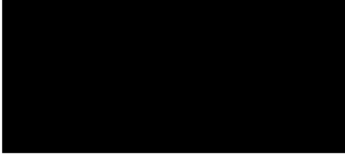


UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

February 27, 2020



Re: The Legal Aid Society
Case 02-CA-251743

Dear 

We have carefully investigated and considered your charge that Legal Aid Society has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You allege in your charge that The Legal Aid Society (the "Employer") has violated the National Labor Relations Act: (1) by failing to bargain with The Association of Legal Aid Attorneys Local 2325, UAW (the "Union") concerning expenditure of pension plan funds, resulting in the underpayment of retiree benefits to you relevant to benefits paid to non-Union retirees; (2) by unilaterally amending a pension plan with regard to plan expenditures, resulting in the underpayment of retiree benefits to you; (3) by refusing your request to include Union representation on the plan's benefits committee when deciding your claims and appeals in connection with the underpayment of benefits to you; and (4) by making expenditure decisions without Union representation on the benefits committee, resulting in the unilateral denial of your claims and appeals.

Section 10(b) of the Act sets forth the Act's statute of limitations by providing that "no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge" In this case, your Charge was filed on November 4, 2019, and served upon the Employer on November 14, 2019. The investigation revealed that you, as well as the Union, knew about the facts supporting your allegations in 2017, which was well before the start of Section 10(b)'s statute-of-limitations period. Furthermore, to the extent that you argue that the continued underpayment of benefits should be considered a continuing violation occurring within the statute-of-limitations period, the Board does not recognize a continuing-violation theory in the circumstances where the unilateral change is alleged, as here, to be the miscalculation of a benefit. *See Arrow Line, Inc.*, 340 NLRB 1 (2003).

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlr.gov. See User Guide. A video demonstration which provides step-by-step instructions and frequently asked questions are also available at www.nlr.gov. If you require additional assistance with E-Filing, please contact E-File@NLRB.gov).

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

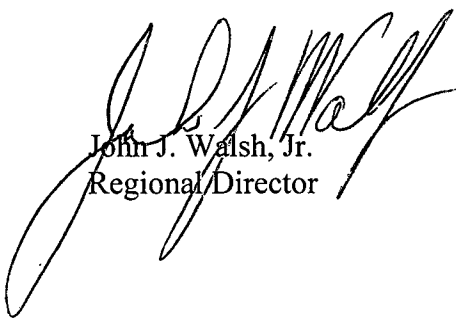
Appeal Due Date: The appeal is due on **March 12, 2020**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 11, 2020. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 12, 2020**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 12, 2020, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Association of Legal Aid Attorneys,
UAW Local 2325, AFL-CIO
Attn: Jared Trujillo, President
50 Broadway
Suite 160
New York, NY 10004-1607

Scott Rosenberg, General Counsel
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