

UFT ELECTION 2016 COMPLAINTS PART 2

Dear UFT Secretary Emil Pietromonaco,

On May 27, 2016 UFT Solidarity submitted 7 official election complaints to you. We then sent an addendum to those complaints that answered some of your follow up questions. Below please see additional official complaints that we want investigated.

To make it easier to respond to, we will continue from the May 27, 2016 letter numbers.

8. On May 24, 2016, at around 4:30 PM, Solidarity's UFT presidential candidate Francesco Portelos went to observe the handling of the 2016 UFT Election ballots. Mr. Portelos entered 120 Broadway NY, NY. This is the building where the American Association of Arbitrators (AAA) is housed. Security directed him to the basement where he rang the bell for the AAA election office. Once buzzed in, he walked into an empty hallway void of any personnel. While looking for any AAA personnel to speak to, about observing the ballot handling, he unknowingly walked into the ballot room where AAA personnel were handling UFT election ballots. This in itself is problematic. A supervisor directed him to an observation room, with observation window shades down, preventing view of the ballots. The AAA person indicated Mr. Portelos had to leave and come back the next day. We allege that this violates the United States Department of Labor's (DOL) Office of Labor Management System's (OLMS) Title 4 Guide Chapter 13 - Observers. As stated in this specific chapter, a requirement is:

"In mail ballot elections, election officials must allow candidates to have observers present when the ballot envelopes are stuffed, labeled, and mailed and during any visits to the post office to pick up and remail ballot packages which were returned undelivered. Observers must also be allowed to accompany election officials when the returned ballots are picked up from the post office, transported to the tally location, reviewed for eligibility, and counted."

Prior to being removed from the ballot room, Mr. Portelos noticed some of the ballots handled appeared to be original ones sent out. They were white and had a clear mailing address window with a green interior. If this was the collection period, then why were they handling originals?

If the rules allow a candidate, or designated observer, to observe the handling of the ballots, then why was he told by a AAA election official that he is "not allowed" in the room and he must come back another day? See also related complaint 3 where Mr. Portelos did return the next day and was told to "wait outside" and not permitted access until UFT Election Chair Amy Arundell and UFT General Counsel arrived.

9. Ballot Accounting- The DOL OMS Title 4 Guide Chapter 14 - Counting Ballots states that:

“Although only valid ballots should be counted in determining the results of the election, election officials should account for all ballots cast in the election, including unused, sample, challenged, spoiled, and totally void ballots.”

UFT Solidarity has asked for an accounting report of the total number of ballots printed, sent, returned, resent, voided and unused. We have made requests before the count, during the count and after. As of the date of this complaint, we have not received any full accounting report of the ballots. Please furnish a full certified report of such of these numbers.

10. During the ballot counting dates of May 26, 2016 and May 27, 2016, UFT election representative Howard Solomon indicated that observers “must stay 4 feet away” from the ballot handlers and ballots. Please investigate and indicate where this “4 feet rule” came from as it doesn’t appear anywhere in the DOL’s rules or guidelines.

11. During the ballot tally period of May 26, 2016, members of the incumbent caucus, Unity, received data and statistics pertaining to returned ballots from AAA election official Scott Boswell. Instead of furnishing other representative groups a copy of the data, Howard Solomon held the paper, in a folded fashion and read numbers to other observers to write down. When Mr. Portelos asked to see the data in its entirety he was denied and told by Mr. Solomon **“These are the numbers. I’m reading you the numbers. You don’t believe me?”** It was later found that there was other data on the undisclosed sheet, some of which indicated the number of ballots collected from the post office per day after the May 5, 2016 mailing.

On May 27, 2016 Mr. Solomon reported to Mr. Portelos that this previously undisclosed data in question was shown to at least Jonathan Halabi, a candidate and observer for MORE/New Action. When Mr. Portelos asked again to see the folded piece of paper, which was laying in front of Howard Solomon and UFT Election Chair Amy Arundell, he was again denied. Mr. Portelos was given the reason that a copy machine was not available to make him a copy. When Mr. Portelos indicated that all he wanted to do is take a digital phone camera picture copy, he was denied that request as well.

No part of the election process or subsequent reporting should give one candidate the upper hand over another. We request that the data in question, as well as **all other analytical data** that is shared with one candidate, is shared with all. We were told we would be given a certified tally report a week after the results and we were not.

Furthermore, AAA states that they can easily print out the list of every eligible voter who returned a ballot. Given the many alleged discrepancies during the election period, we request that this list be furnished to us.

12. In a previous complaint we filed in March 2016, UFT Solidarity caucus challenged the fact that they did not have "Slate" status on the ballot. The ballot rules to be printed on the first page of the ballot were shown to the election committee members for approval. The proposed 2016 rules indicated that if one was to vote slate, they could tear off just the first page and submit only that page instead of the almost a dozen other pages. Due to the fact that UFT Solidarity did not have a slate check off on the first page, it required members voting for UFT Solidarity to submit the entire booklet creating a much thicker "secret" envelope. As the secrecy of a member's vote is paramount in the DOL OLMS election rules, our election committee representative argued that no first page tear off rule be written and all voters submit the entire booklet regardless of slate or individual votes. This proposal was denied by the incumbent caucus that heavily dominates the election committee. See Complaint 7 about the unbalanced election committee.

13. Over 189,000 ballots were mailed out. Over 53,000 ballots were returned, checked for eligibility, opened and scanned. The software used to scan and tally is called Fast and Accurate Questionnaire Scanning System (FAQSS). After two days of the tally process, observer and candidate Francesco Portelos noticed that a Microsoft Excel spreadsheet was open on a laptop connected to the tally machines. As he moved closer he noticed candidate names, position titles and tally numbers listed in the spreadsheet cells. When he moved closer to look, the technician (Mark) minimized the file, but Mr. Portelos could see that it was definitely Excel and not the FAQSS program that was tallying the ballots. The concern was that anyone could go in and manually input data into the Microsoft Excel file. When Mr. Portelos inquired further, he was only verbally told that none of the cells could be manually edited. The final output of results came from the same Excel file.

The concern is that we do not know if the cells could be edited, and numbers, not related to actual vote counts, were entered and printed as final. Post election Mr. Portelos called the FAQSS 3rd party vendor, OCS World, that AAA uses for scanning to inquire about final output process from the tally scanning. Instead of receiving a call from back from OCS World, he instead received this email from AAA:

From: Scott Boswell <Boswells@adr.org>
Date: Thu, Jun 2, 2016 at 4:19 PM
Subject: Re: UFT Election
To: "mrportelos@gmail.com" <mrportelos@gmail.com>
Cc: "aross@uft.org" <aross@uft.org>, Amy Arundell <aarundell@uft.org>, "dhickey@uft.org" <dhickey@uft.org>, "lbarr@uft.org" <lbarr@uft.org>, "eengler@uft.org" <eengler@uft.org>, "hsolomon1116@gmail.com" <hsolomon1116@gmail.com>, "Ann Lesser, Esq." <LesserA@adr.org>, Sacha Ulerio <UlerioS@adr.org>

Mr. Portellos:

As a reminder, and as a point of clarification, this procedure extends in perpetuity. If you have a question on procedure, technology or anything regarding elections, you need to contact the UFT election committee. **Our scanning vendor, who you contacted earlier today, is unable to provide any information to you regarding the process.** I provided a detailed overview of how the scanning process works at the count and fielded several questions over two days as a courtesy to you. If you have any further questions, the election committee can provide answers. If they cannot, they will contact the appropriate party to get the information and relay it to you.

I believe that we have been more than patient with your inability to adhere to this very clear procedure.

Thank you.

Regards,
Scott Boswell

We find it very bizarre, and disturbing, that a simple question to a 3rd party, about their services, was responded to by AAA. It is expected that very clear and detailed procedures and protocols are explained for every single step of the election ballot tally process. Why was Excel used in the end and how do we know that there was no human input?

14. It was reported that 53,046 ballots were returned. It was also reported that Unity caucus received 39,094 slate votes and MORE/New Action received 10,658 slate votes. The total number of non-slate votes is therefore 3,294 (53,046 - 10,658 (MORE) - 39,094 (Unity)). Solidarity, the only non-slate option received an average of 1,450 for their top officer positions. Being that the top officers of both Unity and MORE/New Action received only approximately 100 more votes than their slate, this leaves a questionable 1,600 votes that are unaccounted for. Please investigate and explain the discrepancy.

15. During Election Committee meetings, at those times when the Committee did not reach consensus, the Election Committee chair, Amy Arundell, called for a vote. When Amy Arundell was asked what the significance of the voting was, she stated that the voting roll and the reasons for support or opposition of the Committee members would be recorded in the minutes. Those minutes would be the written record of the Committee, and would serve as a necessary reference point should any body need to know what the Election Committee had discussed. On April 19 and May 25, 2016, Quinn Zannoni, the UFT Solidarity Election Committee representative requested the meeting minutes. To this date, no minutes have been sent out to the Election Committee members.

16. In January 2016, UFT Solidarity emailed pro education/pro-union related emails to over 1,000 UFT members on their NYC Department of Education email accounts. The incumbent Unity run UFT leadership immediately started posting and emailing UFT members that using DOE email accounts was a violation of our employer's "Internet Acceptable Use Policy." and members should not open or engage in these emails. This message from the UFT was not only emailed to school chapter leaders, to relay to all their respective members, but was also posted on social media.

To date, almost 6 months later, our employer did not take issue with those January emails nor with the many more sent since then. This appeared to be a tactic the incumbent caucus used to silence opposition. Even after questioning the UFT leadership on what part of the employer's policy was allegedly violated, UFT Solidarity received no response. See an example of UFT leadership's communication about the alleged violation:

Dear _____,

We have received questions from chapter leaders about the use of DOE email addresses for election campaigning. The bipartisan election committee wants to remind you that the use of DOE email addresses for union activity, including electioneering, is a violation of the [DOE's Internet policy](#).

We have long advised chapter leaders not to use their DOE email addresses to conduct union business. All email correspondence about union activities, including electioneering, should be conducted using non-DOE personal email addresses.

If you receive an email to your DOE email account from one of the caucuses during this election, we recommend, in keeping with the DOE's Internet policy, that you not engage with it.

Sincerely,

Amv Arundell

Thank you ahead of time for responding to our election complaints in a timely manner.

Sincerely,



Francesco Portelos
On behalf of UFT Solidarity Caucus