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Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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April 4, 2012

Ms. Dot Strickland
President
Alabama Education Association
P.O. Box 4177
Montgomery, AL 36103

Dear Ms. Strickland:

The House Committee on Oversight and Government Reform is examining the use of union dues and fees to fund political causes contrary to the will of many union workers. On February 8, 2012, the Committee held a hearing entitled, "The Right to Choose: Protecting Union Workers from Forced Political Contributions," that featured three union workers who testified that their rights are being violated by the use of their dues to support political activity. The full hearing video and testimony of all of the witnesses are available at http://issues.oversight.house.gov/worker-rights. I write to request additional information to further inform the Committee in its oversight of these issues.

At the hearing, Claire Waites, an eighth grade science teacher and a "member in good standing" of the Alabama Education Association (AEA), testified that she was forced to make contributions to the union's political action committees (PACs). As a delegate to the National Education Association (NEA) Convention, Ms. Waites explained that in 2004 she was told by local Baldwin County leadership that a contribution to the NEA's "Children's Fund" was "nonnegotiable," and at the 2008 NEA Convention, a contribution was allegedly made in her name with travel money.[1] After Ms. Waites learned about the 2008 contribution to the "Children's Fund," and that it was a PAC, she strongly objected to it.[2] She attempted to retrieve the travel funds that had gone to the "Children's Fund" from AEA leadership, but was informed that was not possible.[3] Ms. Waites also testified that the AEA automatically deducted funds from her paycheck to support AEA's "A VOTE" PAC without her permission. It was not until she inquired about the deduction that she learned that the "fine print" of the AEA application instructs that she must opt-out, in writing, to stop the deduction.[4]

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[1] *The Right to Choose: Protecting Union Workers from Forced Political Contributions: Hearing Before the H. Comm. on Oversight & Govt. Reform,* 112th Cong. (2012) (Testimony of Claire Waites).
[2] *Id.*
[3] *Id.*
[4] *Id.*

Ms. Waites is not alone in her opposition to forced political contributions. Indeed, the Committee also heard testimony from "proud" UAW member Terry Bowman who has "heard the stories of hundreds of union workers who are ... tired and fed up with the political activities of their union."[5] In fact, a 2010 survey found that 69 percent of private and public union workers think that union leaders should stop spending union dues on politics, and 66 percent believe that it is unreasonable that such spending can occur without their consent.[6]

It is indisputable that union political speech is subject to First Amendment protections; however, the First Amendment also protects against compelled speech of union workers. Indeed, the U.S. Supreme Court has long recognized that constitutional and statutory protections exist to protect a limited number of union workers from forced political contributions.[7] In a significant victory for these workers, the Supreme Court held in *Abood v. Detroit Board of Education,* that under the First Amendment union-represented public workers, who are forced to pay an agency fee, have a right to object to union political spending.[8] Subsequent to this decision, the Supreme Court ruled in *Chicago Teachers Union, Local No. 1 v. Hudson,* that, at a minimum, the Constitution requires that the collection of agency fees from public sector union workers must be accompanied by "an adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decisionmaker, and an escrow for the amounts reasonably in dispute while such challenges are pending."[9]

Nevertheless, these rights have a limited effect because unions are only required to allow workers to object to the use of their dues for political purposes if the worker chooses to forgo union membership when hired or decides to subsequently resign union membership. This limitation deprives workers, like Ms. Waites, who testified that she belongs to the union to obtain liability insurance, the rights afforded to her similarly situated colleagues who do not agree with the use of their hard-earned wages to support political causes, especially those causes with which they disagree.[10]

To assist the Committee in its examination of these issues, I request that you answer the following questions and provide relevant documents to substantiate your responses by April 18, 2012.

1. How does the AEA solicit funds for the NEA Fund for Children & Public Education, also known as the "Children's Fund?"

    a. Please specify any past and current practices used to solicit funds.

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[5] *The Right to Choose: Protecting Union Workers from Forced Political Contributions: Hearing Before the H. Comm. on Oversight & Govt. Reform,* 112th Cong. (2012) (Testimony of Terry Bowman).
[6] Union Facts.com, Use of Dues for Politics *available at http://www.unionfacts.com/political-money/use-of-dues-for-politics.*
[7] *See, International Association of Machinists v. Street,* 367 U.S. 740 (1961); *Abood v. Detroit Board of Education,* 431 U.S. 209 (1977); *Chicago Teachers Union, Local No. 1 v. Hudson,* 475 U.S. 292 (1986).
[8] *Abood v. Detroit Board of Education,* 431 U.S. 209 (1977).
[9] *Chicago Teachers Union, Local No. 1 v. Hudson,* 475 U.S. 292 (1986).
[10] *The Right to Choose: Protecting Union Workers from Forced Political Contributions: Hearing Before the H. Comm. on Oversight & Govt. Reform,* 112th Cong. (2012) (Testimony of Claire Waites).

b. Does the AEA have a policy to ensure that union leadership follows the law in the solicitation of funds for the "Children's Fund" in general, and in particular, during NEA Conventions?

c. How does the AEA ensure that contributions are truly voluntary?

d. In soliciting funds for the "Children's Fund," how does the AEA ensure that union workers are aware of the purpose of the fund?

2. Does the AEA notify all of its workers of how much money is spent on non-representational activities? If so, how?

   a. Is this information available on the AEA website?

   b. Does the AEA publicize a link to the NEA's LM-2 form on the homepage of its website? If not, is the AEA opposed to doing so?

3. How does the AEA determine what expenditures are non-representational?

   a. What activities does the AEA consider non-representational? Please provide a list of such activities.

4. Would the AEA support or oppose the right for all union workers to opt-in to funding the AEA's political activities?

5. Have the AEA union leaders been notified by union workers about their opposition to political spending? If so, how has the AEA responded to these concerns?

6. Does the AEA continue to deduct funds from worker paychecks to raise funds for the A-VOTE PAC?

   a. If so, does the AEA continue to require workers to opt-out of the deduction?

   b. How does the AEA inform workers they must opt-out to stop the deduction?

In preparing your answers to these questions, please answer each question individually and include the text of each question with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions about this request, please contact the Committee at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

DARRELL E. ISSA, CALIFORNIA
CHAIRMAN

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

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Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.

3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.

4. Documents produced in electronic format should also be organized, identified, and indexed electronically.

5. Electronic document productions should be prepared according to the following standards:

   (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

   (b) Document numbers in the load file should match document Bates numbers and TIF file names.

   (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.

8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.

9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.

11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.

12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.

13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.

16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.

18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157of the Rayburn House Office Building and the Minority Staff in Room 2471of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.

6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.