



Internal Revenue Service  
TEGE Referrals Group  
1100 Commerce Street  
MC 4910 DAL  
Dallas, TX 75242

September 7, 2022

Complaint, American Federation of Teachers (“AFT”) EIN # 36-0725240

Landmark Legal Foundation (“Landmark”) requests the Internal Revenue Service (“IRS” or “the Service”) investigate the conduct and tax filings of the American Federation of Teachers (“AFT”).

The AFT, one of America’s largest labor unions boasting a membership of 1.6 million people, devotes considerable resources to political campaign activities. In election years, AFT leadership spends a great deal of time advocating for the election of political candidates. Evidence presented in this Complaint shows that during election years, campaigning for AFT-endorsed candidates may be the primary activity of AFT leadership. In 2016, for example, AFT President Randi Weingarten published hundreds of tweets urging the public to vote for Hillary Clinton and publicizing the many political activities sponsored by AFT to support Mrs. Clinton’s presidential campaign. Ms. Weingarten tweeted up to 80 times per day and up to 550 times per week during peak election season.

Yet AFT did not report nor did it pay any taxes on expenditures made to support political candidates. And unlike similarly situated labor unions, the AFT reports zero dollars in political expenditures on its tax returns. Any individual examining the tax returns of one of the largest unions in the country, whose leadership boasts of access to mayors, governors and presidents, would conclude that the AFT does not spend any of the hundreds of millions of dollars it collects in general treasury revenue on political activities.<sup>1</sup>

The evidence presented in this Complaint, however, tells a dramatically different story. It suggests that the AFT uses general treasury funds to finance political activity. In 2020, AFT

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<sup>1</sup> In assembling this Complaint, Landmark examined AFT’s publicly available disclosure documents for years 2016-2020. This included a search of IRS’s Political Organization and Disclosure database and the Federal Election Commission’s disclosure database. Landmark also examined AFT’s audited financial statements as available on AFT’s website. AFT’s Committee on Political Education or “COPE” filings as available on FEC disclosure databases do not account for or describe the political activities presented in this Complaint. Disclosures on IRS’s Political Organization and Disclosure database by the “AFT State and Local Fund” do not account for or describe the political activities presented in this Complaint.

sponsored a bus tour that functioned as a roving political rally – generating support for the election of candidates for public office. The “AFT Votes” bus tour visited 24 cities. At these stops, AFT leadership spoke to thousands of individuals not affiliated with AFT. AFT personnel advocated for the election of Joe Biden and Kamala Harris and the defeat of Donald Trump. These rallies were not limited to get-out-the-vote (“GOTV”) drives nor were they limited in terms of attendance to AFT membership and members’ families. Rather, they served as political events staged to help elect Democrat candidates to public office.

In 2016 and 2018, AFT sponsored political rallies in cities across the nation. In 2016, AFT’s current president, Randi Weingarten, spoke at the 2016 Democratic National Convention where she advocated for the election of Hillary Clinton. Political advocacy is so woven into AFT’s normal course of business that Ms. Weingarten repeatedly goes door to door advocating for the election of political candidates. Again, despite these clearly political efforts, AFT reports zero dollars in political expenditures on its tax returns and states that it does not engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office. How does the AFT reconcile its enormous political presence with its tax returns that report AFT does not participate in politics?

Internal Revenue Code (“IRC”) 501(c)(5) tax exempt labor organizations, including the AFT, are required to disclose fully to the public, union members, non-union fee payers and the IRS the extent of the organization’s political activities and expenditures. Political activities and expenditures are taxable to the organization unless they are segregated from the organization’s general operations and conducted through a segregated fund. 26 U.S.C. § 527(f). The evidence submitted in this complaint shows:

1. On its four most recent, publicly available tax returns, the AFT reports that it does not use general treasury revenue to fund political activities. AFT also reports that it made no transfers to any related political organization.
2. During the 2016 election cycle, current AFT President Randi Weingarten campaigned extensively for the election of Hillary Clinton and other candidates for public office. In 2017 and 2018, AFT President Randi Weingarten also campaigned for Democratic candidates for public office.
3. During the 2020 election cycle, “AFT Votes” sponsored a bus tour featuring prominent AFT leaders, including Randi Weingarten, political activists, candidates and candidates’ family members. The bus tour mobilized the public to vote for identified candidates for public office.
4. Randi Weingarten devotes much of her social media presence to advocating for the election of identified candidates for public office and to publicize AFT’s political activities.

It is incumbent upon the Exempt Organization Division to determine whether AFT has complied with applicable tax laws and tax regulations. As the AFT is a prominent presence in our nation’s political arena and collects hundreds of millions of dollars in dues from thousands of

members, it is imperative that this organization complies with all applicable tax laws and regulations. If AFT is using membership dues to finance political activities, the Service should immediately assess applicable taxes and penalties. Moreover, agency fee payers and members should not have to finance political activities that they do not support.

### *Applicable law*

The AFT, as an exempt organization, must file a Form 990 tax return. 26 U.S.C. § 6033(a)(1). The 990 tax return obligates exempt organizations to disclose how much money the organization spends on political expenditures. According to the IRS, “Form 990 is the IRS’ primary tool for gathering information about tax-exempt organizations, educating organizations about tax law requirements and promoting compliance.”<sup>2</sup> In addition, the Form 990 serves as a means of information disclosure to the public. “Organizations also use the Form 990 to share information with the public about their programs.” On the “checklist of required schedules” the exempt organization discloses whether it has “***engaged in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office.***” All organizations who file a 990 tax return are required to answer this inquiry. Further, an organization must answer in the affirmative even when the activity “was conducted directly or indirectly through a disregarded entity or a joint venture or other arrangement treated as a partnership for federal income tax purposes and in which the organization is an owner.” **Exhibit 1, “2021 Instructions for Completion for Form 990 Return of Organization Exempt from Income Tax”.**

If the entity answers this question in the affirmative, it must complete a “Schedule C.” The “Schedule C” discloses amounts spent on political campaign and lobbying activities. A labor organization, such as AFT, may engage directly in political activity, as defined by 26 U.S.C. 527(f) (and set forth in the instructions for Schedule C), if all such political expenditures and activities are fully accounted for and reported to the IRS as taxable income. 26 U.S.C. 501(b).

The Service requires 501(c) organizations such as AFT to provide a detailed description of their direct and indirect political activities. **Exhibit 2, “2021 Instructions for Schedule C (Form 990)”.** If the organization collects contributions or dues that are earmarked for a separate segregated fund (or PAC) the organization must show this on its tax return and disclose such amounts on Schedule C.

When a labor union makes an expenditure for an exempt function, it is subject to taxation. 26 U.S.C. 527(b). This tax base is the amount equal to or lesser of: (1) the organization’s net investment income for the taxable year where the expenditures are made, or (2) the aggregate amount of expenditures for exempt function activities during the year. 26 U.S.C. 527(f)(1). This tax liability accrues when the organization makes the political expenditures directly or through another organization. *Id.*

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<sup>2</sup> IRS, Form 990 Resources and Tools, <https://www.irs.gov/charities-non-profits/form-990-resources-and-tools#:~:text=Form%20990%20is%20the%20IRS,the%20public%20about%20their%20programs> (last visited Aug. 31, 2022).

Labor unions such as AFT are required to report and pay taxes on “exempt function” expenditures. 26 U.S.C. 527(f)(1). Exempt function is defined as:

*[T]he function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected or appointed.* 26 U.S.C. 527(e) (emphasis added).

Generally, when an organization supports an individual’s campaign for public office, the organization’s expenditures and activities to support the individual’s election are an exempt function. 26 C.F.R. 1.527-2(c). Political expenditures are therefore not limited solely to money transactions. They include the cost of using, in part or whole, any facilities, personnel, equipment, automobiles and so on. The time spent by an organization’s employees directing “volunteer” campaign efforts or appearing on behalf of candidates must be accounted for by the organization if these activities are subsidized by general revenues. *Id.* See *Alaska Public Service Employees Local 71 v. Commissioner*, T.C.M. 1991-650.

Political expenditures, however, may be made without generating income tax liability if a labor union like AFT establishes a “separate segregated fund.” 26 U.S.C. 527(f)(3). Separate segregated funds, however, are subject to strict income and expenditure reporting rules requiring full disclosure of their political activities. Organizations are required to specify on Schedule C “the name, address and employer identification number (EIN) of each section 527 political organization to which payments were made.” **Exhibit 2, “2021 Instructions for Schedule C (Form 990)”**. 527 political organizations, in turn, are required to register with the Service and file periodic reports disclosing their contributions and expenditures. 26 U.S.C. 527(i)-(j).

A labor union can also avoid incurring taxation so long as the general treasury expenditures made for political activities fall within a regulatory safe harbor. Under the tax regulations, expenditures made for nonpartisan activities such as voter registration and “get-out-the-vote” (“GOTV”) campaigns are not subject to taxation. 26 C.F.R. 1.527-6(b)(5). To fall within this exception, the voter registration and GOTV campaign cannot be specifically identified by the organization with any candidate or political party. *Id.* Further, a labor union does not incur tax liability if it makes expenditures for internal communications to members and their families supporting a particular candidate or for the establishment, administration and solicitation of contributions for separate segregated funds. 26 C.F.R. 1.527-6(b)(2)(3) <sup>3</sup>

***AFT appears to have engaged in exempt function activities that do not fall within the regulatory safe harbor provisions.***

On its last four, publicly available 990 tax returns, AFT has reported that it has made no political expenditures. **Exhibits 3, 4, 5, 6 “AFT 2019, 2018, 2017, 2016 Form 990s”**. Nor does

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<sup>3</sup> The Service has not yet concluded whether a 501(c) organization’s expenditures allowed by the Federal Election Campaign Act (FECA) (2 U.S.C. § 441b(b)(2)(C)) and its indirect expenses relating to political campaign activity are considered an exempt function expenditures. This issue has remained in limbo for at least the last 28 years.

it disclose that it made payments to any 527 political organizations. Thus, according to AFT’s tax returns, it did not expend a single dollar of general treasury revenue on political activities (or “exempt function” activities). It also means that AFT did not function as a “pass through” entity that collected and transferred funds to a related political organization.

AFT is obligated to: (1) report and pay applicable tax on any general treasury expenditure made for an “exempt function”; and (2) report any transfer of funds collected for its related political organization. For the years 2016, 2017, 2018 and 2019, it reported zero dollars in general treasury expenditures for “exempt function” activities. And for these years, it reported zero dollars in funds collected and transferred to a related political organization.

That said, AFT appears to have engaged in exempt function activities. During both the 2016 and 2020 campaign season, AFT President Randi Weingarten advocated extensively for the election of Hillary Clinton in 2016 and Joe Biden in 2020, respectively. Ms. Weingarten campaigned extensively in 2016 for the election of Hilary Clinton to the Office of the President. Her twitter account, for example, contains hundreds of posts advocating for Mrs. Clinton. Ms. Weingarten’s activities do not appear to fall within the safe harbor provisions that would exempt any general treasury expenditures from taxation. They were not limited to non-partisan “get-out-the-vote” drives, nor were they limited to communications with AFT membership.

Although AFT’s tax returns covering the 2020 election cycle are not yet publicly available, AFT will most likely continue its practice of answering “no” when completing its tax returns. Yet AFT appears to have failed to acknowledge on its tax returns for the years 2019, 2018, 2017 and 2016 significant expenses made in support of political candidates. If AFT acknowledges these expenditures on future tax returns, it must amend previously filed returns. Expenditures made from general treasury revenue to support Ms. Weingarten’s activities are subject to reporting and taxation.

### *The 2016 Election Season*

Ms. Weingarten campaigned extensively for Mrs. Clinton in 2016. First, she advocated for the nomination of Mrs. Clinton to Democratic nominee for President. In July, Ms. Weingarten delivered remarks at the 2016 Democratic National Committee where she stated, “Hillary is the most qualified candidate for president in my lifetime. She’ll wake up every day thinking of ways to help all of us. The choice could not be clearer – we must elect Hillary Clinton!”<sup>4</sup> She campaigned for Mrs. Clinton and other Democratic candidates in many states including New Mexico, California, Ohio, Pennsylvania and New Hampshire.<sup>5</sup>

Ms. Weingarten continued to campaign on Mrs. Clinton’s behalf after she secured the Democratic nomination:

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<sup>4</sup> Exhibit 7, “AFT President Randi Weingarten Speaks at Democratic National Convention”.

<sup>5</sup> Audio and video of these events, entitled “Randi Weingarten campaigns with HRC in New Mexico and California,” is available at <https://www.youtube.com/watch?v=WQCyuR4T1zU> (accessed Aug. 16, 2022).

- In February, Ms. Weingarten campaigned in New Hampshire “on behalf of 2016 Democratic presidential candidate Hillary Clinton.” Ms. Weingarten attended “canvass kick-off events at Nasua Campaign Office” and attended a “GOTV [get-out-the-vote] rally at Manchester Community College.” **Exhibit 8, “AFT President Weingarten campaigns in New Hampshire for Hillary Clinton” Associated Press, February 9, 2016.**
- Throughout the year, Ms. Weingarten appeared at multiple campaign events with Mrs. Clinton. At one event Ms. Weingarten stated, “The most qualified person I’ve seen to run for president versus the most dangerous and unqualified person who is the Republican nominee who is running for president. That’s the stakes of this election. But it does come down to getting people out to vote in the next few days.”<sup>6</sup>
- Ms. Weingarten credited AFT for helping Mrs. Clinton achieve victory in the Pennsylvania primary stating, “AFT members worked tirelessly to help deliver Hillary [Clinton] a resounding victory tonight and were critical in this election.” **Exhibit 9, “AFT President Randi Weingarten and AFT-PA President Ted Kirsch on Hillary Clinton’s Pennsylvania Primary Win” Targeted New Service, April 26, 2016.**
- Ms. Weingarten appeared and spoke at multiple political organizing meetings with other unions to mobilize voters to vote for identified candidates for public office.<sup>7</sup>
- In most of the campaign events, Ms. Weingarten and other purported AFT members are wearing t-shirts with the AFT logo and the Hillary Clinton for President logo.<sup>8</sup>
- On Labor Day, in Ohio, Ms. Weingarten spoke at a campaign rally urging the public to vote for Mrs. Clinton, Tim Kaine and Ted Strickland, the Democratic candidate for U.S. Senate. Ms. Weingarten urged the election of these candidates, stating, “Labor built America and the way labor rebuilds America is to go out and vote for Hillary and Tim and Ted Strickland.”<sup>9</sup>
- Ms. Weingarten appeared as a guest at a get-out-the-vote rally for Hillary Clinton in Michigan on October 8. **Exhibit 10, “Michigan Democratic Women’s Caucus get out the vote rallies to mobilize and energize women”.**

*Political advocacy on Twitter during the 2016 election season*

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<sup>6</sup> “Randi Weingarten campaigns with HRC in New Mexico and California.”

<sup>7</sup> “Randi Weingarten campaigns with HRC in New Mexico and California.”

<sup>8</sup> “Randi Weingarten campaigns with HRC in New Mexico and California.”

<sup>9</sup> “AFT members in Cleveland rally with Hillary Clinton on Labor Day,” available at [https://www.youtube.com/watch?v=5Q4i\\_zTqJ7c](https://www.youtube.com/watch?v=5Q4i_zTqJ7c) (accessed Aug. 16, 2022).

Ms. Weingarten was prolific on Twitter in her advocacy for Hillary Clinton. In a two-week period between October 1, and October 16, 2016, the Twitter handle @rweingarten posted about 704 times (44 tweets per day). Most of the tweets were political. Consider:

- From October 1, 2016, to October 7, 2016, the Twitter handle @rweingarten mentioned Donald Trump 99 times – all in a negative light. There were 96 tweets critical of the GOP or Donald Trump’s candidacy and 29 tweets praising Hillary Clinton or Tim Kaine.
- From October 8, 2016, to October 16, 2016, the Twitter handle @rweingarten tweeted 270 political posts – amounting to 70% of all tweets during this period.
- From November 1, 2016, to November 8, 2016, the Twitter handle @rweingarten tweeted 551 times, a rate of nearly 70 tweets per day. Of these tweets, 91 were union related, 84 were commentary on social issues, 154 were criticisms of Donald Trump or the Republican Party, and 126 were an endorsement of Hillary Clinton, Democratic candidates, or both. Donald Trump was named in 130 individual tweets during this period.

The twitter handle @rweingarten featured many photographs of AFT personnel engaging in tax-reportable political activity. These included:

- Tweet shows Ms. Weingarten “going door to door today in Detroit to #gotv for @aftmichigan endorsed DPS school board candidates.” Tweet dated November 7, 2016.
- “Amazing - @AFTunion canvassers goal in PA- 2,000 doors! #1uvote #AFT4Hillary #GOTV” Tweet dated November 7, 2016.
- Twitter handle features a photo of an individual wearing an AFT Hillary Clinton t-shirt and states, “We’re knocking on doors in Pompano Beach, FL to #GOTV for @HillaryClinton #AFT4Hillary #1uvote.” Tweet dated November 8, 2016.
- “We’re getting out the vote in Cleveland with @SenSherrodBrown today!” This tweet features a picture of Senator Brown with AFT personnel. [This tweet is evidence of coordinated activity with Senator Brown.] Tweet dated November 8, 2016.
- “Campaigning with @CharlieCrist” and a photo of Ms. Weingarten at a political rally. [This tweet is evidence of coordinated activity with the Charlie Christ campaign.] Tweet dated October 30, 2016.
- AFT Twitter handle shows a video of Ms. Weingarten at an apparent political meeting. The tweet states, “@rweingarten – you are @HillaryClinton emissaries.

You need to connect with voters' aspirations through your personal experiences #1uVote" Tweet dated October 1, 2016.

Relevant tweets documenting the massive support for the election of Hillary Clinton sponsored by AFT is attached to this Complaint as **Exhibit 11, "2016 AFT Political Activities on Twitter"**.

These activities, including costs for Ms. Weingarten's salary, the salaries of other AFT employees, rental space costs, shirts, signs and other materials fall within the Service's definition of "exempt function." If expenditures to support these activities were financed through general treasury revenue, they are subject to reporting and taxation.

If expenditures were made from any related political organization, such costs should be disclosed on applicable Form 8872s and/or FEC reports. Landmark conducted an extensive survey of AFT's publicly available financial disclosure records (including disclosure Form 8872s for the applicable periods) and could find not items describing these political expenditures. AFT must account expenditures made to support the political activities described in these tweets.

#### *The 2017 and 2018 Election Seasons.*

In June 2017, Ms. Weingarten reportedly went door to door in Columbia, South Carolina, campaigning on behalf of Archie Parnell, the Democrat running for the congressional seat vacated by Mick Mulvaney. This activity reportedly was in partnership with the DNC. **Exhibit 12, "Democrats Give Funding Boost to South Carolina House Contender" June 6, 2017.** Also, in 2017 Ms. Weingarten appeared at a Labor Day rally in Newport News, Virginia, to elicit support for Democratic candidates for Virginia assembly, Virginia Governor and Lt. Governor. **Exhibit 13 "Educators, politicians make pitches at Scott's annual Labor Day cookout" September 4, 2017.**

Political activities in 2018 included:

- In October, Ms. Weingarten spoke at a press conference in Jacksonville, Florida, to advocate for the election of Mayor Andrew Gillum for Florida Governor. **Exhibit 14, "AFSCME members rally to Get Out the Vote in Jacksonville" October 15, 2018.**
- On November 2, Ms. Weingarten rallied with Democrats running for office in New Britain, Connecticut. **Exhibit 15, "Unions Rally to Boost Lamont" November 4, 2018.**

#### *Political advocacy on Twitter during the 2018 election season*

While Ms. Weingarten's Twitter handle did not have as many political posts during the 2018 election season as in 2016, she still engaged in significant advocacy through Twitter during



this period. From October 1, 2018, to October 17, 2018, the Twitter handle @rweingarten posted 555 times. 100 of those related to anti-Trump and anti- Republican tweets. 76 of those tweets were pro Democrat and 29 tweets related to get-out-the-vote.

During the week before the 2018 election (October 31, 2018 to November 6, 2018), @rweingarten posted 375 times. Seventy of these tweets attacked Donald Trump or Republicans, 130 of the tweets were pro Democrat and 45 of the tweets were directed at get-out-the-vote.

Many of these tweets show how AFT officials worked to elect candidates for public office. For example, the @rweingarten twitter handle featured these tweets:

- “The energy today was clear. Despite the rain, educators were there ready to canvass for @GretchenWhitmer. We’ve got 31 days, let’s make sure she’s the next #MIGov.” Tweet dated October 6, 2018.
- “Educators are this excited because @GretchenWhitmer has been a consistent champion for #PublicEd, #HigherED and infrastructure investment. That’s why so many are knocking on doors for her. #AFTVotes #MIGOV” Tweet dated October 6, 2018.
- “Good polls in MN. Dems are up across the board. Let’s keep knocking on doors and talking to neighbors to make sure it happens.” Tweet dated October 11, 2018.

Copies of tweets documenting the election activities undertaken by Randi Weingarten and other AFT personnel during the 2018 election season are attached to this Complaint as **Exhibit 16, “2018 AFT Political Activities on Twitter”**.

These activities, including costs for Ms. Weingarten’s salary, the salaries of other AFT employees, rental space costs, shirts, signs and other materials fall within the Service’s definition of “exempt function.” If expenditures to support these activities were financed through general treasury revenue, they are subject to reporting and taxation.

If expenditures were made from any related political organization, such costs should be disclosed on applicable Form 8872s and/or FEC reports. Landmark conducted an extensive survey of AFT’s publicly available financial disclosure records (including disclosure Form 8872s for the applicable periods) and could find not items describing these political expenditures. AFT must account expenditures made to support the political activities described in these tweets.

### *The 2020 Election Season.*

During the 2020 campaign season, the AFT sponsored a 33-day bus tour that “turned out members and communities to vote for Joe Biden, Kamala Harris and hundreds of other candidates who believe in the value of public services.” **Exhibit 17, “AFT Votes bus tour finishes with a flourish” November 3, 2020.** The bus tour planned to stop “in at least 15 states with more than 30 election events in support of Biden and Harris.” **Exhibit 18, “AFT launches**

**multistate get-out-the-vote bus tour” September 30, 2020.** In the end, AFT President Randi Weingarten and other AFT executives toured 14 states to mobilize voters to vote for against identified candidates for public office. Activities included:

- A kickoff event on September 30, in Los Angeles, California, where AFT leaders urged attendees to vote for Joe Biden and Kamala Harris. **Exhibit 18.**
- An appearance in New Jersey with congressional candidate Amy Kennedy where AFT activists visited “two ballot drop boxes in South Jersey” and “met with Latino leaders.” **Exhibit 17.**
- On October 27, 2020, in North Carolina, AFT executives “held a news conference and car caravan with the Rev. William J. Barber II, Melvin Montford of the A. Phillip Randolph Institute, and other community leaders.” At this conference AFT President Weingarten advocated for the defeat of then-President Trump in the 2020 election. **Exhibit 17.**
- On October 28, 2020, in Georgia, AFT bus tour participants “turned their attention to the state’s two U.S. Senate seats up for grabs.” Appearing at the rally was Heather Fenton, the mother of then candidate for U.S. Senate Jon Ossoff. **Exhibit 17.**
- In an event in Gainesville, Florida, AFT executives, University of Florida faculty and graduate assistants “rallied with community partners to bring the win for Biden and Harris...” **Exhibit 17.** At this event, AFT President Randi Weingarten reiterated AFT’s commitment to politics. She stated, “In unity there is strength. That we actually take care of those that are the most vulnerable. That is what we represent. That is who FEA is. That is who NEA is. *That is who the AFT is and that is why we are engaged as much as we possibly and humanly can in this election.*”<sup>10</sup>
- Later in the tour at a “GOTV” event in Sanford, Florida, a “wide array of unions and community groups” met to mobilize individuals to vote for Joe Biden and Kamala Harris. **Exhibit 17.**
- At another stop in Florida, the “AFT crew visited a busy early voting site in Miami Gardens, complete with a disc jockey, to help get out the vote so critical for a Biden-Harris win.” AFT Secretary-Treasurer Fedrick C. Ingram “exhorted the crowd” by stating, “If you believe that our public schools need better funding, then we need you to get out there and vote for Joe Biden and Kamala Harris.”<sup>11</sup> **Exhibit 17.**
- AFT executives appeared in Cutler Bay, Florida “with Rep. Debbie Mucarsel-Powell, gaggle of Miami Heat players, and candidate for Miami-Dade County Mayor Daniella Levine Cava, who met with enthusiastic voters.” Candidate Levine Cava stated, “I

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<sup>10</sup> Audio and video of this event available at: <https://www.facebook.com/AFTunion/videos/2743921905848193/> (accessed Aug. 16, 2022).

<sup>11</sup> Audio and video of this event available at: <https://www.facebook.com/AFTunion/videos/1157602377968147/> (accessed Aug. 18, 2022).

am so glad to join the AFT in North Dade to fight for the future of our county and the soul of our nation in this election.” **Exhibit 17.**

- The AFT Votes bus tour concluded “its nationwide tour at a Souls to the Polls march and drive-in car rally in Miami on Nov 1.” This event featured speakers from the NAACP, AFSCME and the A. Philip Randolph Institute. **Exhibit 17.**
- After the bus tour, AFT President Randi Weingarten sent a letter to AFT activists across the country stating, “*I’ve seen firsthand the incredible work you have done to defeat Donald Trump and elect pro-public education, pro-worker, pro-healthcare, pro-climate, pro-justice, and pro-democracy candidates starting, with Joe Biden and Kamala Harris.*” **Exhibit 17.**

All of these activities appear to constitute exempt function activities. AFT executive leadership sought to influence the election of multiple individuals (including Joe Biden and Kamala Harris) to public office.

The actions of AFT executives on AFT Votes tour do not fall within the safe harbor provisions because they are not limited to nonpartisan activities. The GOTV efforts described above all appear orchestrated to motivate individuals to vote for Joe Biden, Kamala Harris and other Democratic candidates. Further, these activities are not internal communications with AFT membership or their families. In the examples described above, AFT leadership appears at public events with candidates, other union personnel, community leaders and public interest groups to campaign for the election of Democratic candidates.

Costs for the 2020 AFT Votes bus tour made using general treasury revenue are subject to reporting and taxation under the Internal Revenue Code. As AFT reports on previously filed tax returns that it does not make any political expenditures, it is imperative that the Service confirms that AFT properly reports these expenditures on its 2020 tax return. Failure to report and pay applicable taxes made for these expenditures exposes the organization to civil penalties. 26 U.S.C. §§ 6652 & 6662. Expenditures for the political activities described above do not appear to be accounted for anywhere else. An exhaustive examination of AFT’s other publicly available financial disclosure documents reveals no acknowledgment of the types of activities described above.

#### *Political advocacy on Twitter during the 2020 election season*

Ms. Weingarten was again prolific on Twitter during the 2020 election season. Consider:

- During October 1, 2020, to October 16, 2020, @rweingarten posted 901 times. Two hundred fifty-five of those tweets could be categorized as negative Donald Trump/against Republicans in general. Two hundred twenty-five of those tweets were pro Democrat.

- During October 28, 2020, to November 3, 2020, @rweingarten posted 492 times. One hundred and six of those tweets could be categorized as negative Donald Trump/against Republicans in general. One hundred and seventy-one of those tweets were pro Democrat.

As was the case in previous election cycles, many tweets show how AFT personnel worked to elected candidates for public office. Examples include:

- “I had a chance to canvass in Las Vegas today. We were knocking on doors, talking to voters about @JoeBiden and @KamalaHarris. This is how we win the election. By engaging voters. #AFTVotes” Tweet dated October 1, 2020.
- “I ended the day with a fantastic Zoom with @AFTUnion retirees in Nevada. They’re volunteering for a virtual phone bank because engaging voters, having discussions, is how we win elections.” Tweet dated October 1, 2020.
- “We had a great 3<sup>rd</sup> day of the #AFTvotes bus tour. I started the morning on a Zoom with @TeamBiden staffers in Colorado.” Tweet dated October 2, 2020. [This tweet provides evidence of coordination between AFT and the Biden campaign.]
- “We stopped by the @TeamBiden distribution office too! They are doing a lot of work remotely, but we did have a chance to see the operation.” Tweet dated October 2, 2020. [This tweet provides evidence of coordination between AFT and the Biden campaign.]
- “SO excited to see @AFTUnion members (safely!) out in communities. Our relationships with our neighbors, friends, and families will decide this election, and I’m so happy to see our members mobilizing.” Tweet dated October 9, 2020.

Copies of tweets documenting the election activities undertaken by Randi Weingarten and other AFT personnel during the 2018 election season are attached to this Complaint as **Exhibit 19, “2020 AFT Political Activities on Twitter”**.

As was the case for 2016 and 2018 election cycle election activities, AFT must account for costs incurred to finance the activities described in these tweets. Costs for Ms. Weingarten’s salary, the salaries of other AFT employees, rental space costs, shirts, signs and other materials fall within the Service’s definition of “exempt function.” Past practice has shown that AFT does not acknowledge expenditures to support these activities on its tax returns. AFT must ensure that all tax returns it files with the Service are accurate. Thus, expenditures made in support of AFT’s bus tour and other political activities that were financed through general treasury revenue are subject to reporting and taxation.

If expenditures were made from any related political organization, such costs should be disclosed on applicable Form 8872s and/or FEC reports. Landmark conducted an extensive survey of AFT’s publicly available financial disclosure records (including disclosure Form 8872s

for the applicable periods) and could find no items describing these political expenditures. AFT must account for expenditures made to support the political activities described in these tweets.

***Unlike AFT, peer level labor organizations report political expenditures on their tax returns.***

Unlike AFT, peer level labor organizations such as the National Education Association (“NEA”) and Service Employees International Union (“SEIU”) report expenditures of funds for political activities. For example, NEA reports that it made \$6,185,797 in direct and indirect political campaign activities on its 2018 990 Schedule C. It describes these expenditures as “Political activities that do not constitute an ‘exempt function’ as defined by IRC 527, including communications to members concerning identifiable federal and nonfederal candidates and expenses for the administration and fundraising for the taxpayer’s separate segregated fund.”

SEIU reports on its 2018 Schedule C that it expended \$16,962,377 in direct or indirect political campaign activities. It describes these expenditures as “Member to member communications in support of, or in opposition to candidates for federal, state and local office. Payments for administrative and fundraising expenses for SEIU cope, the union’s federally registered political action committee.”

Both NEA and SEIU report, on their respective 2018 Schedule C reports, that each union made transfers to their respective political organizations . NEA reported \$3,000,000 in transfers to its “Advocacy fund.” SEIU reported \$11,673,840 in transfers to “SEIU Political Education & Action.”<sup>12</sup>

AFT, on the other hand, reports zero dollars in direct or indirect political expenditures and zero dollars in transfers made to any related political organization.

***Conclusion***

IRS enforcement of the Internal Revenue Code enables the public, AFT membership and non-member fee payers to receive accurate and complete information about AFT’s political activities. The evidence presented in this complaint shows that for 2016, 2017, 2018 and 2019 AFT reported zero dollars in political expenditures and zero dollars made in transfers to affiliated political action committees.

Given the recent announcement on increasing IRS resources, it is imperative that the IRS conduct a comprehensive functional and financial investigation to determine the full extent of the political activities of AFT. Where appropriate, the IRS should assess income taxes on tax-exempt resources used for political purposes and impose fines and penalties.

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<sup>12</sup> Review of SEIU’s PAC’s 8872 disclosure reports shows that it received multiple and timely contributions from the SEIU General Fund. This tracks SEIU’s Schedule C’s disclosure that it made prompt and timely transfers from its general fund to its political action committee. Applicable 8872 disclosure reports for NEA’s related political organization are not however available. The last publicly available 8872 disclosure report for NEA’s “Advocacy Fund” dates to 2011.

Respectfully submitted,

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