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April 8, 2024

Lisa Ohta  
President  
Association of Legal Aid Attorneys  
50 Broadway, Suite 1600  
New York, New York 10004

Dear Ms. Ohta:

The Committee on Education and the Workforce (Committee) is conducting oversight of alleged infringements on the rights of union members by the Association of Legal Aid Attorneys/UAW Local 2325 (Local 2325) to determine, among other things, whether existing labor laws adequately protect these rights. Local 2325 appears to have infringed on several statutory rights of its members through actions related to the adoption of the “Resolution Calling for a Ceasefire in Gaza, an End to the Israeli Occupation of Palestine, and Support for Workers’ Political Speech” (Resolution). Accordingly, the Committee is seeking documents from Local 2325 to assist in determining whether legislation is necessary and, if so, to inform potential legislative reforms under consideration, such as legislative changes to the *Labor-Management Reporting and Disclosure Act* (LMRDA) and the *National Labor Relations Act* (NLRA) to enhance the statutory rights of rank-and-file union members.<sup>1</sup>

On March 8, 2024, after efforts to obtain Local 2325’s voluntary compliance proved unsuccessful, the Committee issued a subpoena for relevant documents.<sup>2</sup> Local 2325’s response is deficient, raises inapplicable objections, and has materially impeded the Committee’s oversight efforts. Should Local 2325 fail to comply with the subpoena, the Committee may take further action, including by bringing Local 2325’s officers before the Committee or invoking one or more enforcement mechanisms.

## I. Background to the Committee’s Subpoena

On November 13, 2023, Local 2325 emailed its membership with notice of a Joint Council meeting on November 14, 2023, during which the Resolution would be put forward on the

<sup>1</sup> 29 U.S.C. § 401 *et seq.*; 29 U.S.C. § 151 *et seq.*

<sup>2</sup> Subpoena from Comm. on Educ. & the Workforce to Lisa Ohta, President, Local 2325 (Mar. 25, 2024), .

agenda for consideration to be sent to the full membership for a vote.<sup>3</sup> During the November 14 meeting, the Joint Council voted to send the Resolution to the membership for a vote to be conducted on November 17, 2023.<sup>4</sup> The Committee further understands that the discussion of the Resolution was rife with hostility toward and bullying of the Resolution's opponents.<sup>5</sup> Minutes from the November 14, 2023, meeting would memorialize the discussion that took place, if any, regarding member attempts to invoke any rights provided for by law in light of official action by Local 2325 that was political, ideological, or non-representational.

Prior to adoption of the Resolution, four members of Local 2325 filed a lawsuit and obtained a temporary restraining order preventing the vote from taking place.<sup>6</sup> These members argued that if the Resolution were adopted, it would create irreconcilable conflicts of interest that would deprive them of the ability to perform their jobs as public defenders properly.<sup>7</sup> In direct and immediate response to the legal efforts of four union members, within days of obtaining their temporary restraining order preventing the vote from taking place, charges were filed against them seeking their expulsion from Local 2325.<sup>8</sup> Because union membership can be a condition of employment,<sup>9</sup> there was substantial risk that some ALAA members could have had their employment terminated if they were stripped of union membership for exercising their right to sue the union.<sup>10</sup> In addition, public reporting suggests that retaliatory bullying occurred using Local 2325's group chat mechanism.<sup>11</sup>

On January 29, 2024, the Committee sent Local 2325 a letter highlighting the concerning nature of the Resolution as well as the backlash it caused among members of Local 2325 and employers party to the collective bargaining agreement.<sup>12</sup> The Committee noted how several members of Local 2325 were forced to be associated with a union that had taken a critical position affecting

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<sup>3</sup> Jan. 22, 2024, Appeal from UAW Local 2325 Amalgamated Council Decision to Ratify Charges of "Conduct Unbecoming a Member" Against Members . . . Which Seeks Their Expulsion (on file with Comm.).

<sup>4</sup> *Id.*

<sup>5</sup> See, e.g., Jorge Fitz-Gibbon, *Legal Aid Society Denounces Union's 'Antisemitic' Resolution Amid 'Simmering' Internal Turmoil*, N.Y. POST (Nov. 16, 2023) ("The controversial resolution has already divided lawyers and staffers inside the non-profit — with one attorney this week sending colleagues a profanity-laced email criticizing those who support Israel's retaliation following the surprise Oct. 7 attack by Hamas terrorists, which killed 1,200 people."), <https://nypost.com/2023/11/16/metro/legal-aid-society-denounces-unions-antisemitic-resolution/>.

<sup>6</sup> Press Release, Ass'n of Legal Aid Att'ys, Statement by ALAA in Response to the Dissolution of the Temporary Restraining Order (Dec. 18, 2023), <https://www.alaa.org/media-releases/statement-by-alaa-in-response-tonbspthe-dissolution-of-the-temporary-restraining-order>.

<sup>7</sup> *Clarke v. UAW Amalgamated Local Union 2323*, No. 618764 (Sup. Ct. Nassau Cty. 2023) (verified complaint seeking temporary restraining order, injunctive relief and damages at 4), <https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=wcgPGwBTmImfN6gbswBDKg==>.

<sup>8</sup> Jan. 22, 2024, Appeal, *supra* note 3.

<sup>9</sup> 29 U.S.C. § 158(a)(3) (permitting employer to enter agreement with labor union requiring union membership as a condition of employment).

<sup>10</sup> 29 U.S.C. § 411(a)(4) ("No labor organization shall limit the right of any member thereof to institute an action in any court . . . irrespective of whether or not the labor organization or its officers are named as defendants . . . in such action.")

<sup>11</sup> Franchesca Block & Eli Lake, *Union Lawyers Call Jewish Colleagues 'Deranged' and 'Fascist,'* FREE PRESS (Mar. 28, 2024), <https://www.thefp.com/p/alaa-legal-aid-attorneys-antisemitism-congress>.

<sup>12</sup> Letter from Chairwoman Foxx to Lisa Ohta, Pres., Local 2325 (Jan. 29, 2024), [https://edworkforce.house.gov/uploadedfiles/1.29.24\\_letter\\_to\\_uaw\\_local\\_2325.pdf](https://edworkforce.house.gov/uploadedfiles/1.29.24_letter_to_uaw_local_2325.pdf).

their faith, the State of Israel, and Israel’s sovereignty.<sup>13</sup> The letter made several requests for information and asked for a response by February 12. The information sought in the letter is critical to help the Committee consider and develop potential legislation aimed at ensuring that bargaining unit members are aware of their rights and that unions respect the rights of their members—a central concern made apparent during Local 2325’s adoption of the Resolution.

On February 8, 2024, an attorney for Local 2325 contacted the Committee to ask for clarifications and to narrow the scope of some requests. Committee staff agreed to these requests,<sup>14</sup> which were accommodated in good faith and memorialized in an email to Local 2325’s attorney on February 8.<sup>15</sup> The Committee permitted Local 2325 to redact last names of Local 2325 members, and the Committee committed to discussing additional redactions on a case-by-case basis.<sup>16</sup>

On February 19, counsel for Local 2325 contacted the Committee and stated that, upon further consideration, Local 2325 would not respond to the Committee’s inquiry “at this time.”<sup>17</sup> The Committee requested that Local 2325 reconsider its refusal to cooperate with the Committee’s oversight. When Local 2325 failed to respond to the Committee—even after the Committee had narrowed the scope of requests and had extended the deadline at the behest of Local 2325—the Committee issued a subpoena for the compulsory production of those materials that are indispensable only to its examination of whether legislative action is necessary.

On March 25, the subpoena response deadline, counsel for Local 2325 produced some documents, which were accompanied by a cover letter that set out inapplicable and inappropriate objections.

## **II. Local 2325’s Objections to the Committee’s Subpoena**

The Committee rejects all the objections by Local 2325, which are addressed and overruled individually.

### **A. The Committee’s Subpoena Concerns Matters Within Its Jurisdiction**

Rule X of the House of Representatives authorizes the Committee to conduct oversight of all matters involving “labor generally.”<sup>18</sup> Local 2325’s objection to the Committee’s request for meeting minutes on jurisdictional grounds lacks merit. The Committee has express and

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<sup>13</sup> *Id.*

<sup>14</sup> Email from Joe Wheeler, Comm. staff, to Allyson Belovin, Partner, Levy Ratner (Feb. 8, 2024, 3:41 PM EST) (on file with Comm.).

<sup>15</sup> Email from Joe Wheeler, Comm. staff, to Allyson Belovin, Partner, Levy Ratner (Feb. 8, 2024, 6:48 PM EST) (on file with Comm.).

<sup>16</sup> *Id.*

<sup>17</sup> Email from Allyson Belovin, Partner, Levy Ratner, to Joe Wheeler, Comm. staff (Feb. 19, 2024, 11:23 AM EST) (on file with Comm.).

<sup>18</sup> House Rule X, cl. 1(e), <https://rules.house.gov/sites/republicans.rules118.house.gov/files/documents/118/Additional%20Items/118-House-Rules-Clerk-v2.pdf>.

unambiguous subject matter jurisdiction over labor, which includes the NLRA and the LMRDA.<sup>19</sup> In this case, the meeting minutes compelled by the subpoena are necessary for the Committee to determine whether there is a need to make reforms to the NLRA or LMRDA to protect the rights of labor union members, ensure that labor unions act in a manner that advances members' interests, and provide appropriate transparency to members—all “subject[s] on which legislation ‘could be had.’”<sup>20</sup> The fact that several Local 2325 members sought a temporary restraining order preventing a vote on the Resolution on the ground that it violated Local 2325's duty of fair representation underscores that the request is within the Committee's “lawful and legitimate”<sup>21</sup> jurisdiction.

Requests Nos. 3 and 5 also fall squarely within the Committee's jurisdiction.<sup>22</sup> Request 3 is necessary to help the Committee understand whether internal dispute resolution methods are available to union members and whether existing laws ensure union members may engage in internal dispute resolution. Similarly, Request No. 5 is necessary because the Committee is interested in whether formal disciplinary proceedings, such as the formal trial proceedings provided for under Article 31 of the UAW Constitution,<sup>23</sup> were initiated against members for asserting their rights protected by the LMRDA, their rights under *Communication Workers of America v. Beck*, or their rights as potential religious objectors. The Committee is interested in whether the LMRDA was violated because of certain discipline by a labor organization against union members and whether existing labor laws are adequately protecting union members.

### **B. The Committee's Subpoena Is Neither Vague Nor Overbroad**

Local 2325 objects that the subpoena is “vague and overbroad.”<sup>24</sup> This objection is meritless, both practically and legally. First, the subpoena requests are narrowly focused specifically on Local 2325's apparent suppression of the rights of its members under the LMRDA with respect only to the Resolution and illegal retaliation by Local 2325 against those members whose LMRDA rights were potentially violated. Local 2325 has not met its burden of showing that these requests are not specific and limited to Local 2325's shepherding of the Resolution and the discipline it attempted to take against members as a result of their opposition to the Resolution. The objection loses even more credibility considering that the scope of the requests was narrowed after negotiations with Local 2325's attorney and thereby reflects input by Local 2325 itself.

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<sup>19</sup> See House Rule X, cl. 1(e)(5), (e)(6); Rules of the Comm. on Educ. & the Workforce, Rule 3(a) [hereinafter House & Comm. Rules], [https://edworkforce.house.gov/uploadedfiles/118th\\_ew\\_committee\\_rules.pdf](https://edworkforce.house.gov/uploadedfiles/118th_ew_committee_rules.pdf); 29 U.S.C. § 151 *et seq.*; 29 U.S.C. § 401 *et seq.*

<sup>20</sup> See *Trump v. Mazars USA, LLP*, 591 U.S. at 863 (internal citations omitted).

<sup>21</sup> Letter from N.Y. Civil Liberties Union, *et. al.* to H. Comm. on Ed. & the Workforce (Mar. 25, 2024) [hereinafter Subpoena Response],

[https://www.nyclu.org/sites/default/files/final\\_legal\\_response\\_to\\_alaa\\_subpoena\\_with\\_nyclu\\_lr\\_letterhead\\_pdfa.pdf](https://www.nyclu.org/sites/default/files/final_legal_response_to_alaa_subpoena_with_nyclu_lr_letterhead_pdfa.pdf)

<sup>22</sup> [House & Comm. Rules, supra note 19.](#)

<sup>23</sup> CONSTITUTION OF THE UNITED AUTOMOBILE, AEROSPACE, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, <https://uaw.org/wp-content/uploads/2023/11/Updated-2022-Constitution-8.30.23.pdf>.

<sup>24</sup> Subpoena Response, *supra* note 21.

Second, the Supreme Court has recognized that Congress’s subpoena power is broad. The “scope of [Congress’s] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”<sup>25</sup> “That power . . . is broad” and “encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes.”<sup>26</sup> Notably, in *Trump v. Mazars*, the Supreme Court expressly affirmed Congress’s broad leeway to conduct oversight.<sup>27</sup> Specifically relevant to Local 2325’s objections, the Supreme Court has upheld Congress’s power to investigate labor union corruption.<sup>28</sup> The Committee’s requests concern the application of existing laws—the NLRA and the LMRDA—and are necessary to inform whether revisions are needed to these statutes.

### **C. The Committee’s Subpoena Does Not Violate the First Amendment**

The objection that Request No. 1 violates the First Amendment rights of Local 2325 lacks merit.<sup>29</sup> The Supreme Court has never held that the First Amendment invalidates a congressional subpoena, instead it has explained that a First Amendment privacy interest is not unassailable and must be balanced against the congressional need for information: “the critical element is the existence of, and the weight to be ascribed to, the interest of the Congress in demanding disclosure from an unwilling witness.”<sup>30</sup> The Committee’s subpoena supports an indisputable congressional interest: seeking information to inform potential legislative proposals that would promote and protect free speech and free assembly by union members who disagree with unions’ political, ideological, and non-representational actions.

Importantly, once a union is designated as the exclusive representative of a bargaining unit, federal law confers many benefits upon that union. However, with those privileges come certain responsibilities, including protecting the free speech rights of its members. It has long been understood that the federal government has an important role to play in protecting those free speech rights, and here the Committee seeks to understand if Local 2325 used the statutory authority to act as an exclusive bargaining representative under the NLRA to suppress speech and other rights of its members guaranteed by the LMRDA. And just as the LMRDA provisions protecting the free speech and other rights of labor union members do not violate the First Amendment rights of unions, neither do congressional efforts to conduct oversight of whether the free speech rights of members are being respected and legislative reforms are needed to safeguard those rights. Contrary to Local 2325’s objection, the purpose of the Committee’s inquiry is to ensure that the rights of union members are protected, not to prevent Local 2325 from engaging in unpopular speech. Indeed, Local 2325’s objection would block congress from examining the union’s apparent disregard for the rights of its Jewish members to express their

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<sup>25</sup> *Eastland v. United States Servicemember’s Fund*, 421 U.S. 491, 504, n. 15 (1975) (quoting *Barenblatt*, 360 U.S. at 111).

<sup>26</sup> *Watkins v. United States*, 354 U.S. 178, 187 (1957).

<sup>27</sup> *Trump v. Mazars USA, LLP*, 591 U.S. 848 (2020).

<sup>28</sup> *Hutcheson v. United States*, 369 U.S. 599 (1962).

<sup>29</sup> Despite initial objections on First Amendment grounds, organizations similar to ALAA, such as the National Rifle Association, the Chicken Council, the North American Meat Institute, and the Association of Organ Procurement Organizations, conceded the First Amendment is not a bar to a congressional subpoena by complying.

<sup>30</sup> *Watkins*, 354 U.S. at 198.

own views freely within their union and to assemble freely with other members, rights not just protected by the Constitution but also afforded by applicable labor laws.

Further, the First Amendment does not provide an absolute right to refuse to respond to congressional demands for information. Local 2325 has not engaged in the required “weighing of the alleged intrusion on [its] First Amendment rights against the asserted governmental interest in the subpoenaed information for its investigation.”<sup>31</sup> Here, Request No. 1 is necessary to help the Committee understand whether Local 2325 followed its bylaws and democratic voting procedures in the consideration of the Resolution, not only through the reported vote but also any unreported votes. The Committee is also interested in whether existing laws, including but not limited to the LMRDA, are adequately protecting the rights of union members during votes on resolutions and other matters. Finally, the Committee is interested in whether any discussion occurred at these meetings related to employee rights under *Communication Workers of America v. Beck*. Because Request No. 1 “serves a valid legislative purpose and seeks information that is pertinent to an investigation within the [C]ommittee’s jurisdiction or power,”<sup>32</sup> the Committee’s interest in demanding disclosure from Local 2325 is weighty for all of the reasons set forth above and so the balance of the Committee’s interests weighed against Local 2325’s First Amendment interests clearly favor the Committee.

While the Committee expects Local 2325 to comply in full, the Committee finds Local 2325’s production of responses to Requests Nos. 2, 4, and 6 to be satisfactory. As to the remaining requests, if Local 2325 fails to comply in full with the subpoena’s demands, then the Committee will consider invoking one or more enforcement mechanisms.

Sincerely,



Virginia Foxx  
Chairwoman

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<sup>31</sup> *Senate Permanent Subcomm. v. Ferrer*, 199 F. Supp. 3d 125, 141 (D.D.C. 2016), vacated as moot sub nom. *Senate Permanent Subcomm. on Investigations v. Ferrer*, 856 F.3d 1080 (D.C. Cir. 2017).

<sup>32</sup> *Id.* at 143.