



January 11, 2022

Ed Bastian, CEO
Delta Air Lines, Inc.
1030 Delta Boulevard
Atlanta, GA 30354

Dear Ed,

By letter dated January 7, 2022, Delta's Chief Legal Officer, Peter Carter, contacted AFA's former (now retired) General Counsel, Ed Gilmartin. The letter was forwarded to me and I thought it best to reply directly to you.

Mr. Carter's letter makes general claims about allegedly false and defamatory statements made by AFA in connection with the COVID-19 pandemic and Delta's policies for employees with COVID. His letter does not, however, quote a single statement or social media post that is false in any way, much less defamatory. We believe our statements are truthful and accurate. But we will, of course, correct the record if you can point out to us any specific instance where our statements were false when we made them.

We're glad that AFA's calling attention to the issues appears to have led Delta to update its policy several times and communicate this to workers. Delta's policy now refers to being asymptomatic before returning to work, which was a serious concern as that CDC guidance was initially omitted from Delta's policy announcement. But we are still getting questions from Delta flight attendants about returning to work with a low grade fever and about the fact that Delta's current policy only *recommends* to test before returning to work and does not *require* a test. We are also hearing concerns about prompt notification to crew of exposure, the lack of availability of tests ordered from the company, confusion about the process to get guaranteed pay, if any, for trips lost during the period of isolation beyond five days, and the enforcement and type of masking for anyone COVID+ who has not tested negative before returning to work, including in locations that are currently mask-exempt for Delta workers interfacing with Flight Attendants.

Mr. Carter's letter explains Delta's current policy in glowing terms, but it does not address the perception that Delta itself created for the public and the employees. Delta's only public statement about implementing the new rules it openly lobbied CDC to change in the middle of the holiday travel meltdown at Delta was clear. On the [Delta Hub site](#) a December 27 the article about implementing the new CDC isolation guidance and in statements made to the media, Delta wrote, "The updated guidance allows more flexibility for Delta to schedule crews and employees to support a busy holiday travel season and a sustained return to travel by customers." Delta's public statement, which was widely reported, said nothing about science, public health, or the safety of the staff; it's sole focus was on staffing and scheduling.

Delta lags behind other major airlines in unionization by over 50% of the entire workforce, but one union on the Delta property also has expressed concern that the airline's new guidance would [violate the union contract](#). When issues arise with respect to the legally binding contract vis-a-vis changes to company policy there is a process to resolve them with the union. Issues or disputes are often resolved out of public view because there is a legal collective bargaining relationship. The parties meet, identify

issues, and most often resolve disputes or make policies better and more clear to the benefit of employees and the company. That's why you'll often hear airline competitors talk about the advantage of working with their unions. Over the past two years that advantage was \$54 billion in PSP funds, of which Delta took \$12 billion, that made it possible to survive a crisis worse than all prior disasters in the history of aviation combined.

AFA has worked with airlines across the industry throughout the pandemic. Together we built bipartisan support to make sure our industry didn't collapse, to save jobs, and to have the ability to implement necessary safety measures that also built consumer confidence in air travel during the pandemic. We worked together to implement mask mandates and communicate other safety and health measures, as well as promote access to the vaccine in order to protect workers and make way for the "real sustained return to travel." I understand that you don't have first-hand knowledge of these collective efforts because you didn't attend any of the joint working sessions, take part in the White House meeting in September 2020, or accept the request to testify before the Senate hearing in December 2021. But I do believe the evidence of valuing union representation for Delta employees is enormous.

If Delta valued working with the unions like its competitors, I would have expected Delta to make a different calculation in March of 2020. Rather than focus like the rest of the industry on funds for our collective survival, Delta alone paid lobbyists to ensure there would be no requirement in the CARES Act prohibiting the use of those taxpayer funds to interfere with the right of your employees' to freely choose a union. That condition, in earlier drafts of the funding bill, would have simply required you to adhere to the existing law (Railway Labor Act). The results of respecting workers and their right to unionize speak for themselves in our industry.

I appreciate that Mr. Carter's letter references AFA reaching out to Delta with concerns prior to taking them to the public. If this is an invitation, we welcome it. We have sent numerous letters over the past several years identifying major issues we could discuss and resolve for the benefit of the Flight Attendants and the company. With the exception of legal responses acknowledging employee legal rights to wear union pins and discuss union issues in non-work areas, we have not received responses to our efforts to engage on resolving issues in the workplace. But if Mr. Carter is signaling a change of heart at Delta, we look forward to meeting to discuss issues and resolve them. This new COVID isolation policy and remaining questions about it is a good opportunity.

Delta and our union have been on the same side of many issues, from enforcing Open Skies Agreements for fair competition, to stopping fraudulent attempts to bring untrained animals of all kinds to wreak havoc on passengers and crews in our cabins, to ensuring implementation of 5G is not at the expense of aviation safety. Certainly, we can agree aviation safety and health in the time of COVID is our top priority. No one should come to work sick. Together we can best ensure safety for the people on the front lines who make aviation fly and for the traveling public in our care.

Sincerely,



Sara Nelson
International President
Association of Flight Attendants-CWA, AFL-CIO



Peter W. Carter
Executive Vice President
Chief Legal Officer &
Corporate Secretary

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January 7, 2022

VIA EMAIL: egilmartin@afanet.org

Edward Gilmartin
AFA-CWA General Counsel
501 Third Street, NW
Washington, DC 20001-2797

Dear Mr. Gilmartin:

I am writing you to request that the AFA-CWA cease and desist from posting and promoting false and defamatory information about Delta Air Lines. Delta takes the health and wellbeing of its employees extremely seriously. Throughout the pandemic, Delta has been laser focused on keeping its employees safe and providing them the necessary time off when they are too ill to work. Delta frequently updates its policies based upon the evolving body of science regarding COVID-19, including CDC guidance and in consultation with our health partners at the Mayo Clinic and Emory University.

In its most recent policy update, Delta requires employees testing positive for COVID-19 or with COVID-19 symptoms to isolate for five days post symptom onset/positive test and requires that they not return to work if they continue to test positive or have a fever. Employees who test positive after five days are to remain out of work and are asked to test again on day seven. Vaccinated employees that remain positive receive pay protection throughout their isolation period. Employees exposed to COVID-19 and who are not vaccinated or not boosted or fully vaccinated within the last six months are advised to quarantine and it is recommended they test at day five. If they later test positive or develop symptoms, they are to remain isolated and out of work. Delta has a comprehensive sick leave policy for all employees. If an employee is feeling sick but tests negative for COVID-19, they are able to utilize Paid Personal Time (PPT) to rest and recover.

As you are no doubt aware, COVID-related misinformation is rampant on Twitter and other social media platforms. It is essential that institutions and leaders speak carefully, truthfully, and factually about this sensitive matter of personal health and wellbeing. Our employees' lives and the lives of the people they work with and love, depend on it. That's why transparency has long been the foundation for all of Delta's communication, and always will be. It's what led our COVID-19 education efforts for the past two years that resulted in more than 600,000 employee tests being administered, and a 95%+ workforce vaccination rate – all without the threat of job loss.

Recently AFA used Twitter to spread false and defamatory information regarding Delta's COVID-19 policies. Specifically, AFA reported that Delta is telling employees testing positive for COVID-19 to come to work after five days even if they are still testing positive. In

Edward Gilmartin
AFA-CWA General Counsel
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addition, AFA reported that Delta is telling employees who were exposed to COVID-19 and have symptoms to come to work. This false information was disseminated without anyone from the AFA organization contacting Delta to ensure the information that was set forth as fact was accurate.

Not only is this information false, but it is actionable because it places Delta in a highly negative light by suggesting Delta was asking employees to work while they were ill. Even more troubling, the AFA's conduct appears to have been made with the intent to create fear and confusion among Delta employees about their own health (which is candidly reprehensible). Such irresponsible conduct is inappropriate, defamatory and must cease immediately. We expect you to delete the false information from the AFA and its leader's social media accounts immediately and cease and desist making further false and defamatory statements about Delta.

Sincerely,



Peter W. Carter