



November 3, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to your November 18, 2020, complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), as made applicable to elections of federal sector unions by 29 C.F.R. § 458.29 and the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. § 7120, occurred in connection with the election of officers held by Local 3369 (Local 3369 or the union) of the American Federation of Government Employees (AFGE), on September 30, 2020, by acclamation.

The Department conducted an investigation of your allegations and determined that no violation occurred that may have affected the outcome of the election.

You alleged that Local 3369 did not notify you of the September 30, 2020, nominations meeting. Section 401(e) of the LMRDA requires that a "reasonable opportunity . . . be given for the nomination of candidates." 29 U.S.C. § 481(e). Accordingly, notice must be "timely [and] reasonably calculated to inform" members of how and for which offices nominations will proceed. 29 C.F.R. § 452.56. While no specific method of notice is prescribed, mailing the notice of nominations to each member's last known address within a reasonable time of the nomination meeting would satisfy this requirement. *Id.* Regarding member addresses, the AFGE Election Manual suggests that the election committee should compile "as accurate a list as possible" six weeks prior to an election.

The investigation disclosed that Local 3369 mailed a notice of the nominations meeting to every member at their last known home address on or about August 18, 2020. You alleged that you did not receive the notice because you moved three years prior to the election. While you stated that you informed the secretary-treasurer verbally that you had moved in April 2017, she responded that she was not in the union office at that time, that she always requires members to send address changes in writing, and that she did not receive a written address update from you. The secretary-treasurer stated that when the union receives mail returned by the post office as undeliverable, it attempts to call members to obtain updated addresses, but that none of the mailings sent to you by the union had been returned as undeliverable. In addition, you stated that you only learned recently that members could

update their addresses on the AFGE website. The investigation disclosed four examples of AFGE's Second District newsletters sent via email to members, including Local 3369, prior to the meeting reminding them to update their contact information and that they could use the AFGE website to do so. While the investigation found that the union's mailing list had some incorrect addresses, which may have resulted in members not receiving the notice, the union's efforts were reasonably calculated to reach a majority of the members.

Further, the Department's investigation revealed that Local 3369's constitution provides that nominations for office in election years shall take place at the September membership meeting and that all members have access to the AFGE constitution and bylaws and the election manual via AFGE's website. The investigation also disclosed that you learned from a friend by the morning of September 30, 2020, that the nominations were scheduled to take place that day. You contacted the secretary-treasurer that morning who confirmed that there was a meeting that day at 6:00 p.m. and later sent you a videoconference link so that you could participate in this meeting. Another witness stated that he discussed the fact that the nominations were going to occur the day before the meeting. Despite not receiving the mailed notice, other avenues served to provide notice of the meeting such that you were able to attend. There was no violation.

You also alleged that Local 3369 denied you the opportunity to nominate yourself during the nomination meeting. As discussed above, the LMRDA requires that a "reasonable opportunity . . . be given for the nomination of candidates." 29 U.S.C. § 481(e). Under the Department's regulations, a union may employ any method of nomination of candidates that will provide a reasonable opportunity to make nominations. 29 C.F.R. § 452.57(a). Whether a union's nomination procedures satisfy the requirements of the Act depends on the particular facts of the case; application of a particular procedure in a given instance may make nomination so difficult as to deny the members a reasonable opportunity to nominate. 29 C.F.R. § 452.57(b).

The investigation disclosed that the membership meeting was recorded and each participant's membership was verified. According to the video recording of the meeting, the secretary-treasurer recognized you as present prior to the meeting and, during the officer roll call, the secretary-treasurer called for the "executive vice president" and you responded, "Yes, I am here." The president explained that nominations would be taking place "today." The president then advised the members that the next order of business would be the union officer nominations. Subsequently, the election committee chairman described the nomination process, including stating that candidates could nominate themselves and no second nominations were required. The election chair announced the nominations for each office and asked members three times whether there were any more nominations before he closed each nomination.

Just as the nominations for the last office were closing, you told the election chair that you had wanted to nominate yourself for the office of executive vice president. The election chair

asked if you had been on the call. You responded that you had been on the call, but you had misunderstood the instructions. You did not mention any other problems with the call at that time. The election chair responded that the nominations for that office were closed and he could not reopen the nominations based on his interpretation of the rules governing the conduct of the meeting. Subsequently, you also stated that you had experienced technical difficulties during the call: that there was audio interference; that you had been muted so you could not be heard; that the secretary-treasurer had cut you off when you tried to speak; and that you had to step away from the call because of a package delivery.

The video recording does not indicate that there was audio interference during the nominations. At the start of the nominations, the secretary-treasurer informed those on the call that everyone was being unmuted and the recording does not contain an instance of the secretary-treasurer talking over you. The recording suggests that you were on the call when the chair sought nominations for the office of executive vice president because you referred to the person who had been nominated by name later during the meeting. While there is no indication from the recording that you stepped away from the meeting, even if you did decide to step out of the meeting and missed some part of the nominations, any resulting lack of information would not constitute a failure on the part of the union to provide a reasonable opportunity to members to nominate candidates for office. Accordingly, under these circumstances, the Department concludes that you were provided a reasonable opportunity to be nominated, and that there was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has dismissed your complaint and closed its file in this matter. You may obtain a review of this dismissal by filing a request for review with the Director of OLMS within 15 days of service of this notice of dismissal. The request for review must contain a complete statement of facts and the reasons upon which your request is based. See 29 C.F.R. § 458.64(c).

Sincerely,

[REDACTED]

[REDACTED], Chief
Division of Enforcement

cc:

[REDACTED]

[REDACTED]

[REDACTED]

Associate Solicitor for Civil Rights and Labor-Management