



February 27, 2023



Dear [REDACTED]:

This Statement of Reasons is in response to your August 23, 2022, complaint filed with the Department of Labor (Department), alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred during the conduct of the American Federation of Government Employees' (AFGE) National Convention.

The Department investigated the complaint. As a result of the investigation, the Department has concluded, with respect to the allegations, that there was no violation of the LMRDA that may have affected the outcome of the election.

You allege that you were improperly found ineligible to be a candidate for the 42nd AFGE National Election. You contend that you are a member in good standing of AFGE Local 65. Local 65 asserts that your status is "special affiliate retiree" and AFGE asserts that you are an "honorary member." You submitted your intent to run for National Secretary-Treasurer in December 2021. In January 2022, AFGE notified you that you were ineligible to run for office because you were not a member in good standing.

Section 401(e) of the LMRDA requires unions to conduct their elections in accordance with their constitutions and bylaws, allowing unions to interpret unclear provisions of their governing documents, requiring the government, among others, to accept that interpretation unless it is clearly unreasonable. *See* 29 U.S.C. § 481(e), 29 C.F.R. § 452.3. Article III of the AFGE Constitution addresses membership in the union. It states that all employees of the Federal or D.C. governments are eligible for regular membership in AFGE. Notably, AFGE is not a covered employer for purposes of AFGE membership. Article III, Section 1(c) states, "[a]ny person who at the time of being separated without prejudice from employment covered by subsection (b) was a member in good standing of any local is eligible to continue membership in this Federation." However, it is AFGE's position that a member with a break in service in their AFGE membership

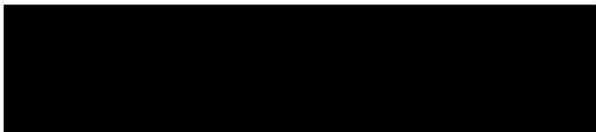
cannot regain regular member status unless they are reemployed by the Federal or D.C. governments. AFGE has two other classes of membership: special affiliate retiree and honorary. Neither special affiliate retirees nor honorary members may run for national office.

The Department's investigation revealed that you were a member of AFGE Local 872 while a D.C. government employee, from 1982 to 2001. You did not maintain your membership with Local 872 after you resigned from that job. In 2004, you started working for AFGE's National Headquarters, but AFGE is not a covered employer for purposes of AFGE membership. In 2016, while employed by AFGE, you joined a national AFGE local - Local 65, almost entirely comprised of retirees and honorary members. In January 2018, AFGE terminated your employment. Because you did not maintain your AFGE membership after you left employment with the D.C. government in 2001, AFGE's determination that you were ineligible to be a candidate was not clearly unreasonable. Therefore, no violation of the LMRDA occurred.

You allege that you were treated as a regular member of Local 65 because you received a membership card; received correspondence from Local 65 addressed to members; were permitted to attend local, district, and national meetings; and were allowed to attend AFGE legislative conferences. During the investigation, AFGE advised that none of these actions make you a regular member. The AFGE Constitution is clear on such membership requirements. Further, AFGE asserted that these rights and benefits are available to all classes of AFGE members. Your receipt of and/or participation in these activities does not change your membership status. The membership requirements are prescribed by the AFGE Constitution, and you did not meet the requirements to be a regular member who is permitted to run for national office. Accordingly, AFGE's determination that you were ineligible to be a candidate was not clearly unreasonable. Therefore, no violation of the LMRDA occurred.

For the reasons set forth above, the Department concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, I have closed the file regarding this matter.

Sincerely,

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Tracy L. Shanker
Chief, Division of Enforcement

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