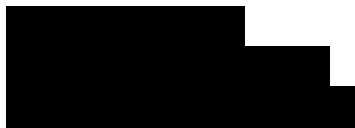




August 25, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on August 26, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (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, 5 U.S.C. § 7120, occurred in connection with the election of union officers conducted by District Council 179, American Federation of Government Employees (AFGE), on May 18, 2014.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the LMRDA that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that delegates from eleven AFGE locals were permitted to participate in the nominations and election of District Council 179 officers, even though these locals failed to provide the proper documentation to the District Council 179 credentials committee. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. Thus, a union's wide range of discretion regarding the conduct of an election is circumscribed by a general rule of fairness. 29 C.F.R. § 452.110. The AFGE District Council Election Manual provides that only properly elected local delegates from locals in good standing may be seated and may nominate and vote in an election of District Council officers. The investigation disclosed that four AFGE locals, Local 515, Local 1687, Local 1915, and Local 2207, failed to properly elect delegates or improperly disqualified candidates as delegates. These delegates cast a total of 2,042 votes. The investigation further disclosed that AFGE locals Local 131, Local 1844, Local 1985, Local 2400 and Local 3930 also may have improperly elected their delegates. These delegates cast a total of 2,160 votes. Thus, the adequate safeguards provision in section 401(c) of the LMRDA was violated in that 2,042 improper votes were cast in the 2014 election of District Council 179 officers and another 2,160 improper votes may have been cast in that election, for a total of 4,202 improper votes ( 2,042 + 2160 =4,202). However, the

vote margins for the contested races ranged from 6,803 to 8,605 votes. Thus, there was no violation of the LMRDA that may have affected the outcome of the election.

You alleged that former District Council 179 president [REDACTED] interfered with the duties of the District Council 179 election committee by improperly proportioning the voting strength of the delegates representing Local 2400. The investigation disclosed that no interference occurred. Further, the investigation disclosed that the District Council 179 election committee allotted the Local 2400 delegates their full voting strength. The LMRDA was not violated.

You alleged that the District Council 179 constitution requires the election of officers to be conducted at 1:00 p.m. on Sunday, every three years, and that the polls did not open until 1:30 p.m. Section 401(f) of the LMRDA provides, "when officers are chosen by a convention of delegates elected by secret ballot, the conventions shall be conducted in accordance with constitution and bylaws of the labor organization. . . ." The investigation showed that the officers of District Council 179 were elected by delegates to the District Council 179 2014 convention. Article VI, section 3 and Article X, section 1 of the District Council 179 constitution require that the election of District Council 179 officers be conducted every three years at 1 p.m. on a Sunday in May, prior to the District Caucus. The investigation disclosed that the polls opened at 1:30 p.m. You stated during the investigation that some delegates may not have voted because of the one half hour delay in opening the polls. However, the investigation showed that 19 AFGE locals attended the District Council 179 convention and that all of the delegates from these locals participated in the nominations and election of District Council 179 officers. To the extent that the LMRDA was violated because the election started at 1:30 p.m. instead of 1:00 p.m., as required by the District Council 179 constitution, the violation would not have affected the outcome of the election.

You alleged that [REDACTED] name was spelled incorrectly on the ballot. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. The investigation disclosed that [REDACTED] first name was incorrectly spelled [REDACTED] on the ballot and that [REDACTED] first name was incorrectly spelled [REDACTED] on the ballot. However, the investigation disclosed that the delegates were not confused by the misspelling of the names and that delegates did not fail to vote for [REDACTED] or [REDACTED] because their names were not correctly spelled on the ballot. To the extent that the LMRDA was violated as a result of the misspelled names on the ballot, there was no violation that may have affected the outcome of the election.

You alleged that the election of District Council 179 officers was not conducted by secret ballot. Section 401(f) of the LMRDA provides, "when officers are chosen by a convention of delegates elected by secret ballot, the conventions shall be conducted in accordance with constitution and bylaws of the labor organization. . . ." Article X, section 3 of the District Council 179 constitution provides, "the Council shall elect its officers by secret ballot. . . ."

During the investigation, delegate [REDACTED] stated that someone was standing three to four feet from him while he was marking his ballot and that he witnessed voters, election committee members, and observers in the voting area talking among themselves while he was voting. Delegate [REDACTED] stated during the investigation that she witnessed a delegate move to another area of the conference room so that the delegate could vote in private. Delegates [REDACTED], [REDACTED], [REDACTED] and the Local 515 president stated during the investigation that they did not witness any secrecy problems while they were in the voting area marking their ballots and that only two delegates were permitted in the conference room at a time to vote. They further stated that the voting tables were spaced far enough apart to prevent a voter from seeing how another voter marked his or her ballot. Also, election committee members [REDACTED] and [REDACTED] stated during the investigation that election committee members and observers did not stand near the voters; voters did not sit across the table from each other while they voted, and the only voters who conducted a conversation between themselves while in the voting area were you and [REDACTED]. The evidence is inconclusive as to whether ballot secrecy was compromised and does not provide an adequate basis for finding probable cause to believe that the LMRDA or the District Council 179 constitution was violated.

You alleged that the security of the voted ballots was compromised when the ballot box became full and voters had to stick their hands into the ballot box and pushed down the ballots so that their ballots could fit into that box. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. The investigation disclosed that at some point during the voting process the ballot box became full and delegates were required to force their ballots into the ballot box. Some delegates may have pushed down the ballots that were already in the box so that their ballots could fit into that box. However, election committee members remained at the table where the ballot box was located during the voting process. Observers were in the voting area throughout that entire process. Neither the election committee members nor the observers reported that they witnessed delegates removing ballots from the ballot box. The LMRDA was not violated.

You alleged that the Sergeant-at-Arms had control of the unused ballots during the voting and ballot tallying processes and there was no accounting of the number of unused ballots in his possession. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. The investigation disclosed that the conference room where the voting took place was approximately 200 square feet. During the voting process, the election committee chair asked the Sergeant-at-Arms to secure the unused ballots until the ballot tally was completed. The Sergeant-at-Arms placed the unused ballots under a table located near the entrance to the conference room. The ballot box was also located near that entrance. The Sergeant-at-Arms was located in the middle of that room while the unused ballots were secured under the table. During the voting process, election committee members remained at the table where the ballot box was located. Observers were present in the voting area throughout that entire process. Neither the election committee members nor the

observers stated that they witnessed the Sergeant-at-Arms access the unused ballots during the voting process. The investigation showed that the unused ballots remained under the table until the ballot tally was completed. At the completion of the tallying process, the Sergeant-at-Arms removed the unused ballots from underneath the table, the ballots were sealed in an envelope, and the election committee taped that envelope to the box containing the other election records. There is no evidence of ballot fraud or other election improprieties. To the extent that the adequate safeguards provision in section 401(c) of the LMRDA was violated when the unused ballots were secured under a table located in the voting room and there was no accounting of the number of unused ballots, no violation occurred that may have affected the outcome of the LMRDA.

You alleged that the votes recorded on the tally sheets did not match the results of the vote count. You also alleged that the ballots were not recounted. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. The investigation disclosed that after the initial vote count, the votes recorded on the tally sheets did not match the results of the vote count. The election committee recounted the votes reflected on the ballots twice and recalculated the votes recorded on the tally sheets several times. The election committee's final recount of the votes reflected on the ballots showed that 12,765 votes were cast for the race of president and 12,760 votes were cast for the secretary/treasurer race. The Department's recount of the votes showed that 12,743 votes were cast for each of these races. The vote margins ranged from 6,803 votes to 8,605 votes. To the extent that the minor discrepancies between the Department's and the election committee's recount of the votes constituted a violation of the LMRDA, any violation did not affect the outcome of the election.

You alleged that a potential candidate for District Council 179 president was subjected to improper interference by the president of Local 2779 and a member of the council. You alleged that this interference caused the candidate not to run for office. Section 401(e) of the LMRDA provides that any eligible member has the right to vote for or otherwise support the candidate or candidates of his choice without being subject to improper interference. The investigation showed that, during the District Council 179 caucus, there was a confrontation between [REDACTED] the president of Local 2779, and [REDACTED] concerning whether Local 2779 should be seated at the caucus. [REDACTED] stated during the investigation that later that day [REDACTED] pointed her finger at [REDACTED] while shouting that [REDACTED] would never be president of District Council 179. [REDACTED] stated that [REDACTED] statement regarding [REDACTED] never being president of District Council 179 intimidated [REDACTED] into not running for office. However, the investigation disclosed that the confrontation occurred in connection with the parties' disagreement concerning whether Local 2779 should be seated at the caucus. [REDACTED] statement that [REDACTED] would never be president of District Council 179 amounted to campaign bantering. There is no evidence that the statement or confrontation improperly interfered with [REDACTED] right to be a candidate. [REDACTED] was not prevented from seeking nomination to office. Nor was [REDACTED] prevented from soliciting support for her candidacy as president from delegates from locals other than Local 2779. There was no violation of the LMRDA.

Finally, you alleged a violation concerning observer qualifications. The District Council 179 constitution is silent regarding qualifications for observers. Thus, neither the LMRDA nor the District Council 179 constitution was violated with respect to that matter. You also alleged violations that are not governed by the union officer election provisions of the LMRDA. Thus, even if these allegations are true, the LMRDA was not violated.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Stephen J. Willertz  
Acting Chief, Division of Enforcement

cc: Mr. J. David Cox, Sr., National President  
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Washington, DC 20001



Christopher B. Wilkinson, Associate Solicitor  
Civil Rights and Labor-Management Division