



February 10, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on May 7, 2014. Your complaint alleges that numerous 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 the Civil Service Reform Act of 1978 (CSRA), occurred in connection with the December 30, 2013 election of officers conducted by American Federation of Government Employees Local 2525 .

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations, that there was no violation that would provide a basis for litigation by the Department.

First, you alleged that certain members of the election committee were not selected by the membership. Section 401(e) of the LMRDA and 29 C.F.R. § 452.2 provide that elections shall be conducted in accordance with the constitution and bylaws of the labor organization. AFGE Constitution, Appendix A, Section 2(a) states that “[a]n election committee . . . shall be selected, and it shall meet at a reasonable time before commencement of the nomination procedure.” Additionally, Local 2525 Bylaws, Article IV, Section 4 states that the election committee will be nominated and elected prior to nomination of officers.

The investigation determined that the Local 2525 President appointed committee members [REDACTED] and [REDACTED] to serve on the election committee. Both [REDACTED] and [REDACTED] admit that they were not elected as election committee members. The nomination meeting minutes show that election committee chair [REDACTED] and committee members [REDACTED] and [REDACTED] were elected. The minutes are unclear as to whether other members of the committee were elected. In any event, the investigation revealed no violation of the LMRDA attributable to the actions of the election committee. Appointing rather than electing certain election committee members did not result in a violation affecting the outcome of the election.

Second, you claimed that candidates were denied the right to have an observer because the date, time, and place for counting ballots were not made public to the candidates or the membership. Section 401(c) of the Act provides that “[a]dequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.”

The Department of Labor investigation revealed that although certain candidates were contacted on an individual basis with the date, time and place of the ballot count, that information was not made generally known to candidates or the membership. The LMRDA requires unions to comply with candidates’ request to observe, among other things, the counting of the ballots; however, the LMRDA does not impose an affirmative duty on unions to notify candidates of the date, time and place for counting ballots. There was no evidence that candidates who requested to have an observer were denied that opportunity. There was no violation of the LMRDA.

Third, you alleged that the election results were never made public or published timely in violation of Section 401(e), which provides that elections shall be conducted in accordance with the constitution and bylaws of the labor organization. AFGE Constitution, Appendix A, Section 5(g) provides that the election committee shall prepare a written report and inform members of the election results “as soon as possible after the total ballots cast are tallied.” Local 2525 Bylaws, Article IV, Section 5(d), provide that results of the election shall be published separately.

The Department’s investigation determined that the election results were posted on the union bulletin board; however, it took a couple of weeks to post the results because the key to the union bulletin board was lost and the board had to be re-keyed. Even if there was a violation, it would not have affected the outcome of the election. The results were accurately reported.

Fourth, you alleged that a non-election committee member retrieved return ballot envelopes from two Post Office boxes. Section 401(c) of the LMRDA provides that “[a]dequate safeguards to insure a fair election shall be provided,” and Section 401(e), states that elections shall be conducted in accordance with the constitution and bylaws of the labor organization. Local 2525 Bylaws, Article IV, Section 5(a) states that the election committee shall be at the Post Office on the date of the regular meeting in December at 3:45 p.m. to secure the ballots from the Postmaster, and return to the meeting room and count ballots . . .”

The investigation revealed that a non-election committee member retrieved return ballot envelopes. This individual was accompanied by an election committee member. The election committee member stated she accompanied the non-election committee

member to both post office boxes to retrieve return ballot envelopes and that they arrived at the union hall together, with the return ballot envelopes. There was no evidence revealed that the non-election committee member engaged in any unlawful action in helping to retrieve ballots. Moreover, you made no allegation to that effect. There was no violation that may have affected the outcome of the election.

You also claimed that return ballot envelopes were retrieved from two Post Office boxes. The investigation determined that the election committee mistakenly placed the union's post office box number on some of the return ballot envelopes. However, there was no allegation and no evidence revealed that the ballots sent to the union's post office box were improperly accessed prior to the ballot tally. There was no evidence of a violation affecting the outcome of the election.

For the reasons set forth above, the Department of Labor concludes that there was no violation that may have affected the outcome of the election. Accordingly, I have closed the file on these matters.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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