



April 18, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed with the Department of Labor on August 24, 2015, 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 the Civil Service Reform Act of 1978, occurred in connection with the April 13, 2015, election of officers conducted by American Federation of Government Employees (AFGE) Local 1206.

The Department of Labor conducted an investigation into your allegations. As a result of the investigation, the Department concluded that there were no violations of the LMRDA. The following is an explanation of this conclusion.

You alleged that the local's incumbent executive board was improperly allowed on the ballot despite receiving union compensation. You asserted that receiving union compensation meant that the officers were not members in good standing of the union.

Section 401(e) of the LMRDA states that "every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed)." The sole qualifications for candidacy to AFGE local office are that the individual be a member in good standing (that is, current in dues), be a member of an AFGE local for one year prior to the close of nominations, and not be a member of any labor organization not affiliated with the AFL-CIO. AFGE Rules of Conduct for an Election part I, section 1(e); see also Local 1206 Constitution article VII, section 2(a).

The Department reviewed the dues payment histories of all candidates for LMRDA-covered offices. The investigation confirmed that all six were members in good standing when they were nominated and for the year prior to nomination. During the investigation, you acknowledged that, given that being in good standing means being current in dues, all of the incumbents were members in good standing. There was no violation.

You alleged that Election Chair [REDACTED], another election committee member, and election company UniLect excluded other election committee members from participating in the election. You alleged that, as a result, the union failed to provide adequate election safeguards in that UniLect collected ballots from the post office three times, undeliverable ballots were not returned to the post office, there was no ballot reconciliation, and the placement of the address on the ballot return envelope caused completed ballots to be returned to voters. Section 401(c) of the LMRDA requires the union to provide adequate safeguards to ensure a fair election, and section 401(e) provides that every member in good standing shall have the right to vote.

You alleged that ballots were collected from the post office three times in response to calls from the post office that the post office box was full. The investigation disclosed that UniLect's director of elections, [REDACTED], rented a post office box in Fairfield, California, via the internet for use during the election. She instructed the post office by telephone to leave the keys inside the box. Fairfield post office employee [REDACTED] explained that, without a key, the only person who could access the box was the person who rented the box. [REDACTED] stated that she never called [REDACTED] to tell her that the box was full. When the post office box could not accommodate all the ballots, the overflow was placed in trays and taken to a secure area of the post office for storage. The investigation confirmed that [REDACTED] called the post office three times over the course of the election to keep a tally of incoming ballots and to see whether the number of ballots was consistent with past returns. [REDACTED] stated that all of the ballots were picked up at one time by [REDACTED] after [REDACTED] presented identification. [REDACTED] retrieved the ballots in front of observers on the day of the vote tally. The ballots were placed in a collapsible vinyl box and secured with numbered seals for transportation to the vote-counting site. Election committee members and observers signed a log verifying that the seals were applied at the post office and removed at the tally. There was no violation.

You also alleged that undeliverable ballots were not automatically returned to the post office because you believed that UniLect used business mail for the ballot packages. The investigation disclosed that the ballot packages were mailed by Precise Printing & Mailing Inc. via presorted first-class mail. Presorted first class allows for undeliverable mail to be returned to the sender. UniLect maintained an undeliverables log that showed twenty ballots were returned to the sender. Of those, eight were successfully remailed to members after the election committee obtained their updated addresses. There was no violation.

You further alleged that no ballot reconciliation occurred. The investigation disclosed that a full ballot reconciliation occurred. UniLect comprehensively documented the various stages of the ballot mailing and re-mailing processes. There was no violation.

You also alleged that the placement of the address on the ballot return envelope caused voted ballots to be returned to members. You stated that a worker at the Fairfield post office informed Burkhart that the placement of the return address on the back of the return ballot envelope would cause the post office's processing machinery to mail the voted ballot back to the voter's own address. Your observer, [REDACTED], identified eighteen members whose voted ballots were allegedly returned to them because of the return ballot envelope design.

The investigation revealed that, during the election, three members notified the local or UniLect that their voted ballots had been returned to them by mail. The investigation confirmed that UniLect sent each of those members a duplicate ballot. The local also contacted all members by email during the election to provide instructions about how to obtain duplicate ballots. During the investigation, the Department attempted to contact all eighteen members identified by [REDACTED] as having had their ballots returned. The Department interviewed five of those members; none of them stated that their voted ballots had been mailed back to them at their own addresses. The Department also attempted to contact thirty members at random who did not return voted ballots. The Department interviewed six of those members; none of them received voted ballots mailed back to them. The investigation further disclosed that any mailing of voted ballots back to voters was caused by postal error, not by the union's action. According to Priscilla Bailey, a U.S. Postal Service mailpiece design analyst, return ballots would have been mailed to the correct address as long as postal workers did not make errors. She explained that, if a problem occurs in the post office's automated processing machinery, the mail is kicked out of the process and handled by a human. Postal workers are required to follow postal regulations by sending mail to the address on the side of the envelope with the stamp. There was no violation.

You also alleged that [REDACTED], another election committee member, and UniLect exhibited favoritism toward the incumbent candidates in several respects. Section 401(c) of the LMRDA requires unions to refrain from discrimination in favor of or against any candidate.

You alleged that [REDACTED] accompanied President Gloria Salter to campaign meetings at the Mather and Martinez Veterans' Affairs centers. During the investigation, [REDACTED] denied campaigning for Salter or any other candidate at any time during the election. Your election observer, [REDACTED], stated that she did not see or hear [REDACTED] campaign to anyone during the election. You did not present any evidence that [REDACTED] campaigned on Salter's behalf. There was no violation.

You alleged that [REDACTED] helped mail Salter's campaign literature on time but delayed your campaign mailing. Section 401(c) of the LMRDA requires unions to comply with all reasonable requests of any candidate to distribute campaign literature to the membership at the candidate's expense. Candidates were given a choice as to how to

mail their campaign literature: they could use Precise Mailings' services, or they could provide their own envelopes and work with election committee members to affix mailing labels supplied by the union. You chose the latter option. The investigation disclosed that you contacted [REDACTED] on March 19, 2015, and scheduled an appointment with him for the morning of March 20, 2015, to address your envelopes. However, [REDACTED] contacted you to cancel the appointment after a scheduling conflict arose. Election committee member [REDACTED] then agreed to meet with you on the afternoon of March 20, 2015, to help address your envelopes. Your campaign literature was mailed on March 21, 2015. The ballot packages were mailed on March 23, 2015. Thus, your campaign literature was sent out two days after you made your request and two days before the ballots were mailed. The delay of one day caused by the need to reschedule an appointment with an election committee member did not violate the LMRDA. There was no evidence that the union failed to comply with your request to distribute your campaign literature. There was no violation.

You also alleged that Bayani incorrectly informed you that the local had only 1,000 members, causing you to mail campaign literature to only 1,000 addresses instead of to the complete membership. The investigation confirmed that Gallagher was prepared with mailing labels for 1,092 union members but that you brought only 1,000 envelopes with you to your appointment. During the investigation, Bayani denied telling you that there were only 1,000 union members. He stated that he directed you to ask Gallagher for an exact count. However, Gallagher stated that you never asked her for an accurate count. Further, Gallagher provided a signed statement attesting that she overheard you telling Leno that you brought only 1,000 envelopes because that was all you could afford. After you learned on March 20, 2015, that there were 1,092 mailing labels, you had three days before the ballots were mailed to purchase envelopes for the remaining 92 union members, but you did not do so. There was no violation.

For the reasons set forth above, the Department concludes that there was no violation of the LMRDA. Accordingly, I have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

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