



August 10, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on December 10, 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 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 the American Federation of Government Employees, National Council of GSA Locals, Council 236, on August 15, 2015.

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 Act that may have affected the outcome of the election.

You alleged that Margaret Lien, president of Local 2600, was ineligible to run for Council 236 office because she permitted her local to improperly waive the dues requirement for retiree members and then counted retirees as members to increase Local 2600's voting strength at the Council 236 convention. Section 401(f) of the LMRDA requires a union to conduct convention elections of officers in accordance with the union's constitution and bylaws. The AFGE National Constitution prescribes the qualifications for candidacy. The AFGE National Constitution provides that, in order to be eligible to run for office, a candidate must be in good standing, be a member of an AFGE affiliated local for one year immediately preceding nominations, and must not be a member of a union not affiliated with the AFL-CIO.

The Department's review of certain Council 236 and Local 2600 records revealed that Lien met all of the qualifications for candidacy and was eligible to run for office. The investigation revealed evidence that the union's records indicated that Lien has been in good standing since 1978. Candidate eligibility does not involve the circumstances you

protested, those circumstances would not invalidate Lien's candidacy. There was no violation.

With respect to the allegation that Local 2600 President Lien improperly waived the dues requirements for retirees, AFGE informed the Department that a local may waive dues requirements for retirees but that the waiver must be approved by the local's membership and preferably be set forth in the local's bylaws. The investigation disclosed that Local 2600's bylaws provide that retirees are required to pay monthly dues. Lien stated during the investigation that Local 2600's membership approved the dues waiver for retirees some time ago and that the local has a long standing practice of employing the waiver. Local 2600, however, was unable to provide the Department with any documentation substantiating this approval, and the local's bylaws do not contain a waiver.

In any event, waiving retiree dues and adding the number of retirees to the Local's membership total did not affect the outcome of the election. Under Section 402(c) of the LMRDA, a union election is only set aside where the violation may have affected the outcome of the election. Based on the number of active and retired members in Local 2600, the local was entitled to two delegates and allotted one vote per delegate. If retirees were excluded from that number, the local would have been entitled to only one delegate and one vote at the convention. The vote margin for each contested race was 8 votes. Thus, even if the local improperly cast one vote, that vote could not have affected the outcome of the election.

You also asserted that Aquilla Brock was ineligible to nominate Margaret Lien for president of Council 236 because Brock, a member of Local 2488, may not have paid local dues. A nominator must also be a member in good standing. The investigation showed that Local 2600 delegate [REDACTED], not Brock, nominated Lien for Council 236 president and that Simmons was a member in good standing.

Finally, you alleged that Council 236 failed to follow the AFGE National Constitution when each local voted its delegate strength by casting one vote per delegate, instead of voting its membership strength by casting the number of votes equal to its total membership. Section 401(f) of the LMRDA requires a union to conduct convention elections of officers in accordance with the union's constitution and bylaws. The Department's investigation disclosed that the Council 236's constitution provides that each delegate is entitled to cast one vote before the Council. Council 236 also has a past practice of requiring such voting. Further, the AFGE National Constitution does not require a Council to determine voting in a particular fashion. The LMRDA was not violated.

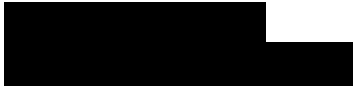
For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: J. David Cox, National President
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Margaret Lien, Council President
AFGE Council 236



Beverly Dankowitz, Associate Solicitor
Civil Rights and Labor-Management Division