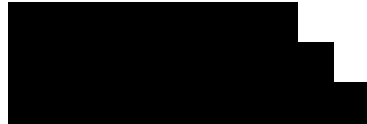




January 26, 2018



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on August 24, 2017. Your complaint alleged that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (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 when the National President of the National Treasury Employees Union overturned the election of officers conducted by Chapter 282 on April 21, 2017, and ordered that the election be rerun.

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

In your complaint to the Department you challenged the bases for the National President's June 30, 2017 decision overturning the mail ballot election of officers completed by Chapter 282 on April 21, 2017, and ordering a new election.

The standard applicable to the Secretary of Labor in deciding whether a new election is required, i.e., the finding of a LMRDA violation that may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA provides unions the opportunity to correct election problems and deficiencies before complaints are filed with the Secretary of Labor, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Secretary accords a degree of deference to decisions on internal union election protests providing for the conduct of a new election. The Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing

candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the statute, and the union's decision to hold a new election is unreasonable.

Here, the Department's investigation substantiated that the National President ordered a new election of Chapter 282 officers after finding, among other things, that Chapter 282 failed to fully comply with a candidate's reasonable request to distribute campaign literature by mail to the membership. Section 401(c) of the LMRDA provides that a union must comply with the reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy to all members in good standing of such labor organization. 29 C.F.R. §§ 452.67, 68. The Department's investigation confirmed that the election committee designated only one day (May 6, 2017) for candidates to have their campaign literature mailed using labels provided by the union that contained members' names and home addresses. The Department's investigation further confirmed that Chapter 282 failed to inform candidates of the total number of address labels available for such mailing. As a result, candidates did not have a sufficient amount of campaign materials to send a campaign mailing to all of the union's approximately 1,500 members on the designated day; they had prepared only enough materials to send their campaign mailings to about 1,400 members. Subsequently, a candidate requested that the union permit him to mail his campaign literature to these 100 members, but the union refused.

In addition, the National President found that the Chapter 282 election committee retrieved voted ballots from the post office box designated for the return of such ballots on at least six occasions prior to the date scheduled for the retrieval of the ballots for counting. Section 401(c) of the LMRDA provides that a union must provide adequate safeguards to ensure a fair election, including the right of any candidate to have an observer at the polls and the counting of the ballots. This right encompasses every phase and level of the election process. 29 C.F.R. § 452.107. The Department's investigation corroborated that the election committee failed to notify candidates that it would be retrieving voted ballots from the post office box prior to the ballot count and vote tally. As a result, on at least six occasions, candidates were denied a right to observe the election committee's collection of these ballots from the post office box, in violation of the adequate safeguards provision in Section 401(c) of the LMRDA.

On these facts, the National President's decision to overturn the election and order a new election was not based on the application of a rule that violates the LMRDA; made in bad faith, such as to afford losing candidates a second opportunity to win; or otherwise contrary to the principles of union democracy embodied in the statute. Therefore, the National President's decision overturning the election and ordering a new election was not unreasonable. The LMRDA was not violated.

Accordingly, this office has closed the file in this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

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