



May 17, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on July 31, 2018, alleging 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 (CSRA), 5 U.S.C. § 7120. You alleged that violations occurred in connection with the regularly-scheduled election of union officers conducted by Local 2018, American Federal of Government Employees (AFGE) on March 14, 2018, and the runoff election conducted on April 4, 2018.

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 either election. Following is an explanation of this conclusion.

You alleged that Local 2018 violated section 401(c) of the LMRDA, 29 U.S.C. § 481(c), by allowing ineligible members to vote in certain races. Section 401(c) of the LMRDA requires unions to provide adequate safeguards to insure a fair election. You asserted that the union allowed members of the appropriated funds unit and the non-appropriated funds unit to vote for both the appropriated vice president (AVP) and non-appropriated vice president (NAF) positions in the March 14, 2018 regular election, even though Local 2018's constitution provides that members may only vote for the position that corresponds with their unit. To remedy the error that allowed members to vote outside their units, Local 2018 conducted a runoff election on April 4, 2018. That runoff involved only the NAF position because the AVP position became uncontested after one of the two candidates for the AVP position dropped out of the race. You alleged that the runoff election for the NAF position did not remedy the violation because Local 2018 allowed members of the appropriated funds unit to vote. In particular, you alleged that appropriated funds member [REDACTED] voted in the runoff. However, because the margin of victory in the runoff was five votes, [REDACTED] vote had no effect on the outcome of the election. Furthermore, there was no showing that other members from outside the non-appropriated unit voted in the

runoff. Accordingly, allowing one ineligible member to vote for the NAF position could not have affected the outcome of the runoff election.

You also alleged that Local 2018 violated section 401(e) of the LMRDA, 29 U.S.C. § 481(e), by not allowing new members enough time to vote in the March 14, 2018 regular election. Section 401(e) of the LMRDA provides that every member in good standing shall have the right to vote. Thus, unions must afford members a “reasonable opportunity to vote.” 29 U.S.C. 452.94. In this case, Local 2018 mailed ballots to the membership for the regularly-scheduled election on February 27, 2018. New Local 2018 members were eligible to request a ballot package and mail in their votes if, on or before March 9, 2018, a union officer accepted the new member’s completed and signed dues withholding form (SF 1187). Ballots had to be received by 10 a.m. on the day of the count, March 14, 2018. In bold font, the voting instructions in the ballot package stated:

IMPORTANT: Mail you[r] ballot in sufficient time so it will be received at the AFGE Local 2018 Election Committee P.O. Box 2707, Twentynine Palms, CA 92277 no later than 10:00 a.m. on Wednesday, March 14, 2018. Any ballots either received after the deadline or in envelopes which do not identify the ballot as that of an eligible voter shall not be counted as a valid ballot.

You alleged that the union set a deadline for requesting ballot packages that was too close to the election for members to be able to timely return their ballots. During the Department’s investigation, five members who submitted the proper dues withholding forms on March 8 and 9 stated that they received ballots in the mail within two days. These members also stated that they mailed their ballots within two days of receiving them, but that their votes were not recorded. The Department’s investigation did not find a record of these ballots being returned to Local 2018, even after the election deadline. Therefore, there was no showing that the March 9, 2018 deadline set by the union was unreasonable. In this case, the union members could have requested their ballot packages prior to March 9, 2018 and returned them as soon as they arrived in the mail rather than waiting two days after receiving them. Accordingly, no violation occurred that affected the outcome of the election.

You also alleged that Local 2018 violated section 401(e) of the LMRDA, 29 U.S.C. § 481(e), by appointing an even number of members to the Election Committee in violation of Local 2018’s constitution, which requires an odd number of members. Section 401(e) of the LMRDA provides that a union shall conduct its elections in accordance with its constitution and bylaws. The Department’s investigation found that when Election Chairman [REDACTED] told you that the three-member Election Committee needed a “runner” to help with the election’s logistical errands, you recommended [REDACTED]. [REDACTED] assisted with the election. The Department’s investigation found that [REDACTED] duties were more consistent with

those of a runner than those of an Election Committee member. Moreover, the Department's investigation found that even if [REDACTED] had been a full member of the Election Committee, her membership would not have affected the outcome of the regular or runoff elections because there were no issues that required a vote from the Election Committee. Accordingly, no violation occurred that affected the outcome of either election.

For the reasons set forth above, it is concluded that no violation of 29 C.F.R. § 458.29 occurred that may have affected the outcome of either election. Accordingly, the office has closed the file in this matter. You may obtain a review of this dismissal by filing a request for review with the Director within 15 days of service of this notice of dismissal. A copy of your request must be served on the District Director and the union and a statement of facts must be filed with the Director. The request for review must contain a complete statement of facts and the reasons upon which your request is based. *See* 29 C.F.R. § 458.59.

Sincerely,

[REDACTED]
Brian A. Pifer
Chief, Division of Enforcement

cc: J. David Cox, National President
American Federation of Government Employees
80 F Street, NW
Washington, DC 20001

Clyde Valentine, President
American Federation of Government Employees Local 2018
P.O. Box 6266
Bldg. #1102T1 First Street
Twenty-nine Palms, CA 92278

Beverly Dankowitz
Associate Solicitor for Civil Rights and Labor-Management