



November 15, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on February 14, 2019, 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 (CSRA), 5 U.S.C. § 7120. You alleged that violations occurred in connection with the regularly scheduled election of union officers conducted by District Council 170, American Federal of Government Employees (AFGE), on November 3, 2018, and the rerun/runoff election conducted on April 30, 2019.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations that no violation occurred that may have affected the outcome of the election.

You first alleged that the District Council 170 election committee improperly ordered a rerun/runoff election after certifying the election results even though, you alleged, no related election protest was filed. You alleged that the AFGE Election Manual states that once the election committee has certified the election results, it may consider only allegations raised by protests. You specifically alleged that the election committee had no authority or jurisdiction to recommend a runoff or rerun election of the treasurer position.

Section 401(c) of the LMRDA requires, in pertinent part, that a union provide adequate safeguards to ensure a fair election, and section 401(f) requires a union to conduct convention elections of officers in accordance with the union's constitution and bylaws. 29 U.S.C. §§ 481(c), (f).

The investigation established that member [REDACTED] submitted a valid election protest to the union alleging that improperly credentialed delegates were allowed to cast ballots. In investigating that protest, the union discovered that Local 2723's credentials expired prior to the convention because its delegate was outside his term of office and, therefore, he should not have been allowed to cast Local 2723's 108 votes. The union determined that those 108 votes may have affected the outcomes of the races for treasurer and second west vice president. The investigation confirmed that on April 30, 2019, a rerun of the treasurer's race and a runoff for the second west vice president position were held to remedy the violation. The investigation established that locals were required to submit new credentials for the rerun/runoff election. The

union's decision to hold a rerun/runoff election for the two positions that may have been affected by the identified violation did not violate the LMRDA.

Next, you alleged that District Council 170 failed to ensure voter secrecy as evidenced by its ability to determine from which candidates' vote totals to subtract the 108 votes cast by the Local 2723 delegate. The LMRDA does not require voter secrecy when officers are chosen by a convention of delegates. Therefore, even if true, this allegation would not constitute a violation of the LMRDA. Furthermore, the investigation established that the union assessed the possible effect of the violation not by determining how the Local 2723 delegate voted, but rather by comparing the 108 votes to the margins in each race, including evaluating the effect on the majority requirement for the races in question under the AFGE Constitution. *See* AFGE Constitution, app. A, pt. I, sec. 5(h). There was no violation.

You also alleged that holding a rerun/runoff election by mail ballot violated District Council 170's bylaws. As noted above, section 401(f) of the LMRDA requires a union to conduct convention elections of officers in accordance with the union's constitution and bylaws. 29 U.S.C. § 481(f). The investigation established that the AFGE Constitution permits elections to be held by manual ballot, by mail ballot, or by secure electronic option. AFGE Constitution, app. A, pt. 1, sec. 5(a). The investigation further established that District Council 170's bylaws do not require a certain method of election or prohibit mail ballot elections. There was no violation.

Finally, you raised allegations in your complaint that had not been timely and properly raised in your protest to the union. Section 402(a) of the LMRDA requires that a member exhaust the remedies available to him or her under the union's constitution and bylaws before filing a complaint with the Secretary of Labor. 29 U.S.C. § 481(a). These allegations were not properly exhausted and were not part of the Department's investigation of your complaint.

For the reasons set forth above, the Department has concluded that there was no violation of 29 C.F.R. § 458.29, and I have closed the file regarding 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,



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Chief, Division of Enforcement

cc: American Federation of Government Employees
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