



November 13, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on August 8, 2018, 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 regularly scheduled election of union officers conducted by the American Federation of Government Employees (AFGE) Local 1206 on April 16, 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 LMRDA that may have affected the outcome of the election. Following is an explanation of this conclusion.

The Department's investigation showed that you raised allegations implicating the adequate safeguards provision in section 401(c) of the LMRDA. Section 401(c) of the LMRDA contains a general mandate requiring a union to provide adequate safeguards to insure a fair election. *See* 29 U.S.C. § 481(c). Therefore, a labor organization's discretion regarding the conduct of an election of union officers is circumscribed by a general rule of fairness. 29 C.F.R. § 452.110.

First, you alleged that the union used numerous membership lists for the election and that the number of members included in these lists varied from 325 to 1,500 members. The investigation disclosed that the union generated different membership lists during various phases of the April 16 election period in an effort to ensure that all eligible voters were afforded the opportunity to vote. Specifically, on January 26, 2018, Local 1206's secretary/treasurer emailed a list (master list) containing the names of 1,322 members to the election services company hired by the union to conduct the election.

On February 2, 2018, the election services company used the master list to mail the nominations notice to 1,322 members. On February 5, the company discovered that the name of one member had been left off the master list. The member's name was added to the master list and he was mailed a nominations notice that same day. On March 19, 2018, the union updated the master list by adding the names of an additional 34 members to the list. As a result, the March 19 master list contained the names of 1,357 members. The election services company used this master list to mail ballots to 1,357 members. Following that mailing, the union generated another list containing the names of 40 new members who joined the union after the March 22 ballot mailing but before the April 14, 2018 election. The election services company mailed ballots to these 40 members.

Also, the election services company created several additional lists during the course of the election, including a list containing the names of 309 members who returned voted ballots, a list of the names of 39 members who requested and were mailed duplicate ballots, and a list of the names of 47 members whose ballots were returned as undeliverable. In any event, the investigation disclosed that the union revised its membership lists several times during the course of the election in an effort to improve the accuracy of such lists. Further, the Department's review of the election records did not disclose any union list containing the names of 325 or 1,500 members. There was no violation of the LMRDA.

Second, you alleged that the election committee mailed your campaign mailer to 1,400 members on your behalf, and that 63 such mailers were returned as undeliverable. You anticipated that only two mailers would be returned to you as undeliverable because you believed that the election committee had obtained updated addresses for all but two members whose nominations notices had been returned as undeliverable. With respect to the nominations notice, the investigation showed that 1,323 nominations notices were mailed during the election and that 120 nominations notices and nine such duplicate notices were returned to the union as undeliverable. Prior to the ballot mailing on March 22, 2018, the union attempted to contact these 120 members by telephone and/or email in an effort to obtain better home addresses for these members. During the investigation, the election committee chairperson stated that the union was able to obtain new addresses for about 40 of these members, leaving 80 members for whom the union was unable to obtain updated addresses.

Concerning the ballot mailing, the investigation showed that of the 1,357 ballots mailed to members on March 22, 2018, 47 such ballots were returned as undeliverable. The union was able to obtain updated addresses for ten of these 47 members and ballots were re-mailed to the new addresses. The investigation further disclosed that your campaign mailers were mailed to members on March 21, 2018, the day before the ballot

mailing, and that the list used to mail the ballots also was used to mail your campaign mailer. Therefore, it is reasonable to conclude that as many as 47 of your mailers were returned undeliverable. However, the investigation showed that the union took reasonable steps to obtain updated home addresses for members prior to and after the ballot mailing, and that despite the union's best efforts it was unable to find updated addresses for 37 members. There was no violation of the LMRDA.

Next, you alleged that the election services company billed the union for the cost of mailing 1,359 ballots to members but the union mailed only 325 or 353 such ballots. You also alleged that the union was unable to account for 42 voted ballots. The investigation found that 1,357 ballot packages, which included business reply mail (BRM) envelopes for the return of the voted ballot, were mailed to members on March 22, 2018. The investigation also found that from March 22 to April 12 the election services company mailed 40 ballots to new members and 39 duplicate ballots to members who requested them. The investigation showed that on the day of the election the union retrieved 253 BRM envelopes containing voted ballots from the Travis Air Force Base post office and 56 such envelopes from the Fairfield Main post office for counting, for a total of 309 ballots. The union did not retrieve any ballots from the post offices prior to April 16, 2018.

The investigation further disclosed that, in addition to the 309 ballots the union retrieved from the post offices on April 16, another 39 BRM envelopes containing voted ballots were processed by the Fairfield Main post office the day after the April 16 election, for a total of 348 ballots ($309 + 39 = 348$). Although the union retrieved 309 ballots from the post offices on April 16, the postal service's billing statements indicated that the postal service charged the union for processing 351 BRM ballot envelopes for the election, leaving a discrepancy of 42 ballots ($351 - 309 = 42$). As a result, you asserted that the union was unable to account for 42 ballots.

However, the investigation disclosed that the 309 BRM envelopes that the union retrieved from the post offices on April 16 did not include 39 BRM envelopes processed by the Fairfield Main post office the day after the election. Thus, it appears that the post offices processed a total of 348 BRM envelopes for the election, leaving a three-ballot discrepancy ($351 - 348 = 3$). The Department's review of relevant postal service records revealed various errors, calling into question the accuracy of the postal service's billing statement. In any event, the smallest vote margin for any contested race was 15 votes. Thus, to the extent that the LMRDA was violated by this potential three-ballot discrepancy, the violation could not have affected the outcome of the election.

You alleged that the election services company and the election committee conspired to oust you from office and manipulated the election results. To support this allegation,

you claimed that you received the same number of votes in the 2018 presidential election as you received in the 2015 presidential election. The investigation did not disclose evidence of any such alleged conspiracy or manipulation. In fact, the results of the Department's recount of the votes cast in the 2018 presidential race and the union's vote count for that race were identical. Further, the Department's review of the election records did not disclose any evidence supporting the allegation that the election was not conducted impartially. Nor is there any evidence that the election services company or the election committee engaged in ballot fraud or other election improprieties while carrying out their official election duties during the 2018 election. There was no violation of the LMRDA.

You also alleged that members did not receive ballots in the mail. In addition to the adequate safeguards requirement in section 401(c) of the LMRDA, section 401(e) of the LMRDA provides that every eligible member has the right to vote for or otherwise support the candidate of his or her choice. 29 U.S.C. § 481(e); 29 C.F.R. § 452.84. The investigation disclosed that adequate safeguards were not lacking regarding the ballot mailing and that eligible members were not prevented from voting for or otherwise supporting the candidate of his or her choice. To support your allegation, you asserted that a member told you that she heard that many members did not receive ballots in the mail. When interviewed by the Department, the member in question stated that she could not identify any members who told her that they did not receive a ballot in the mail. In any event, the union had a duplicate ballot request procedure in place that permitted a member who did not receive a ballot in the mail to call the duplicate ballot request line and request a duplicate ballot. The investigation disclosed that 39 members used the duplicate ballot procedure and were mailed ballots. There was no violation of the LMRDA.

In addition, you alleged that members were discouraged from requesting a duplicate ballot when they called the duplicate ballot request line because the telephone operators were not trained and asked members to provide their full social security numbers. You identified eight individuals whom you alleged were discouraged from requesting a duplicate ballot when they called the duplicate ballot request line. One of these individuals stated during the investigation that she provided only the last four digits of her social security number when she called to request a duplicate ballot, that she received a duplicate ballot in the mail, and that she voted in the election. With respect to the seven remaining individuals, the Department's investigation found that six received a ballot; the one individual who was not mailed a ballot was not a dues-paying member. There is no evidence that the duplicate ballot request procedure was inadequate or that it discouraged members from voting. There was no violation of the LMRDA.

You further alleged that the secretary/treasurer's wife brought a fabricated voters' list to the vote tally. During the investigation, the secretary/treasurer stated that on the day of the vote tally he arrived at the tally site early to set up. The secretary/treasurer also stated that he left the tally site before the ballots arrived. However, after he returned to his home, the election committee chairperson called the secretary/treasurer and asked him to bring a membership list to the tally site. In response to the election chair's request, the secretary/treasurer retrieved a printed copy of Local 1206's membership list that he had previously downloaded from the "MyLocal" located on the AFGE webpage. After retrieving the list, his wife drove him back to the tally site, she gave the list to a representative of the election services company, and then immediately left the premises.

However, during the investigation the election committee chairperson and the election services representative denied that the secretary/treasurer's wife came to the tally site on the day of the vote tally and gave a copy of a membership list to the representative or any member of the election committee. Also, a union official who attended the vote tally stated during the investigation that he never saw the secretary/treasurer's wife at the tally site during the vote tally or on the day of that tally. In addition, the representative stated that on April 15, the day before the election, the secretary/treasurer emailed him a copy of a membership list that the secretary/treasurer had previously downloaded from the "MyLocal" located on the AFGE webpage. The representative further stated that he used the April 15 membership list and a list of members who voted in the election that was generated by the union during the voting process to verify voter eligibility during the ballot count and vote tally. In sum, the Department's investigation did not reveal any facts supporting your allegation that a fabricated membership list was presented to union officials on the day of the tally. Nor is there any evidence that a fabricated voters' list was presented to union officials during the course of the election. The evidence does not provide an adequate basis for concluding that there was a violation of the LMRDA.

Finally, you alleged that you lost the election because the election committee chairperson and other members of that committee were biased and wanted you to lose the election. The investigation did not disclose evidence that any of the election officials treated you unfairly or in a biased manner while serving on the election committee. Nor is there any evidence that these election officials gave preferential treatment to your opponents or any other candidates while serving in that capacity. No candidates gained a political advantage over you or any candidates on your slate in the election. There was no violation of the LMRDA.

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

dismissed your complaint and closed its 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,



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