



November 21, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on June 5, 2019. The complaint alleged that 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, was violated in connection with the regularly scheduled election of officers of Local 2778 (Local 2778 or local), American Federation of Government Employees (International or AFGE), completed on March 25, 2019.

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

You alleged that the local failed to provide adequate safeguards to ensure a fair election in several instances. Specifically, you alleged that [REDACTED], incumbent local treasurer, set up the polling area prior to the opening of the polls, entered the polling area at least three times during polling hours, and on several occasions, spoke to election committee members. In effect, you are alleging that a candidate for office, rather than election officials, participated in or controlled the election process, perhaps giving her candidacy an unfair advantage. Section 401(c) requires unions to provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c). Those safeguards apply a general rule of fairness to each phase of the election, including campaigning. 29 C.F.R. § 452.1 and § 452.110.

The investigation disclosed that on the day of the election, March 25, 2019, a representative of True Ballot, the election company hired by the local, set up the polling area, assisted by three election committee (EC) members. Poll preparation commenced at 6 a.m., prior to the opening of the polls at 7 a.m.; the polls closed 12 hours later at 7

p.m. The investigation further disclosed that the local treasurer was not present prior to the opening of the polls.

Under section 5(b), Part I of Appendix A of the International Constitution (IC), the treasurer is required to furnish to the election committee the names and address of all members and to indicate whether or not they are members in good standing. The incumbent treasurer ran unopposed, and won by acclamation on the day polling occurred. The investigation confirmed that [REDACTED] entered the polling area during polling hours on numerous occasions for the sole purpose of verifying the eligibility of members when such questions arose, a duty she was required to perform under the IC. At no time did [REDACTED] engage in campaigning while in the polling area, nor do you so allege. There was no violation.

You also alleged that the election committee chair printed and distributed ballots to voters during the times the election representative took breaks. Section 5(d) of the IC, requires the EC to furnish each voting member with a ballot. The Department's investigation disclosed that the election representative instructed EC members on the method for verifying voter eligibility and printing a ballot. He reasonably anticipated he would need to take breaks while at the local's premises during the 12 hours of polling, followed by the tally. The investigation disclosed the election representative took few breaks, and did so when either no or few voters were present in the polling area. Even if the election representative's breaks were longer than a few minutes, EC members were authorized under the IC to check the eligibility of voters and furnish each eligible voter with a ballot. Coordination between the election representative and the EC members facilitated the union's obligation to provide adequate safeguards to ensure a fair election. There was no violation.

You alleged that the successful candidate for local president remained in the polling area for extended periods of time. The investigation disclosed that [REDACTED], successful candidate for president, did not remain in the polling area after casting her vote. However, [REDACTED] like all other candidates, including you as the incumbent local president, had the right to serve as your own observer and could have remained within the polling area had you or any other candidate so chosen. 29 C.F.R. § 452.107(a). There was no violation.

Although you raised additional allegations in your complaint to the Department, the Department will only address those allegations that were fully exhausted internally with the union. Accordingly, those additional allegations not exhausted internally with the union are dismissed.

There were no violations of the LMRDA in the conduct of the March 25, 2019 election. Accordingly, we are closing our file on this matter.

Sincerely,



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Chief, Division of Enforcement

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