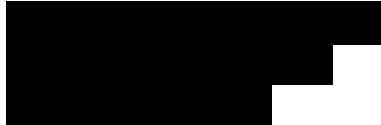




December 11, 2019



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 (National 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 Act that may have affected the outcome of the election.

You alleged that the local failed to follow its constitution and bylaws when candidates were permitted to campaign within fifty feet of the polling site. Section 401(e) requires that unions conduct their elections in accordance with their constitution and bylaws. 29 U.S.C. § 481(e). Both the local's bylaws and the National Constitution are silent regarding campaigning near the polls. However, the AFGE Election Guide, Step 22(3) provides that "[the election committee] must permit no campaigning in or within 50 feet of the polling area."

Although you did not witness this purported illegal campaigning, you provided the names of eight witnesses. The Department interviewed four of your witnesses but was unable to reach the other four. Three of those four witnesses interviewed denied seeing any campaigning within 50 feet of the polling area. The fourth witness provided a list of 28 signatures of people who purportedly witnessed this event. The Department was able to discern the names of only 17 individuals among those signatures, nine of whom

made themselves available for interview. None of those nine members corroborated your allegation.

The Department also measured the distance from the polling area to the area in which you identified campaigning had occurred. The measurement showed that any campaigning in that area extended well beyond 50 feet from the polling area. There was no violation.

You alleged that local treasurer [REDACTED] was in the polling area prior to the opening of the polls, entered the polling area numerous times throughout the day, and spoke to election committee members. Section 401(c) requires unions to provide adequate safeguards to insure a fair election. 29 U.S.C. § 481(c). Those safeguards apply to every phase of the election process, and mandate 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 prior to the opening of the polls at 7:00 a.m. on March 25, 2019, a representative of True Ballot, the election company hired by the local, set up the polling area with the assistance of the three election committee members. The treasurer was not present at that time.

Under section 5(b), Part I of Appendix A of the National Constitution, the treasurer is required to furnish the election committee with the names and addresses of all members and to indicate whether or not they are members in good standing. The investigation confirmed that [REDACTED] entered the polling area on numerous occasions, but only for brief periods of time, and for the sole purpose of verifying the eligibility of voters when such questions arose. At no time did [REDACTED] engage in campaigning while in the polling area, nor did you allege otherwise. Further, on the day of the election, [REDACTED] was no longer a candidate, having run unopposed and winning the office of treasurer by acclamation. Finally, [REDACTED] involvement in resolving eligibility issues is required by the National Constitution. There was no violation.

You alleged that candidate for secretary [REDACTED] name was not on the ballot. The Department's investigation showed [REDACTED] name was in fact on the ballot for office of secretary. There was no violation.

You alleged that the placement of the ballot box on top of the box in which materials routinely are deposited for shredding caused one member to drop her voted ballot into the shredder box and may have confused other members to similarly mistake the shredder box for the ballot box. The investigation disclosed that the local did indeed place the ballot box on top of the box containing materials for shredding. One member placed her folded, voted ballot in the slot of the shredder box. The election committee immediately retrieved the folded, voted ballot and placed it into the ballot box. At that

point, the election committee sealed the slot by placing tape over the slit of the shredder box. No other ballots were deposited in the shredder box. There was no violation.

For the reasons set forth above, the Department has concluded that there was no violation of 29 C.F.R. § 458.29 that had an effect on the outcome of the election, 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,



Chief, Division of Enforcement

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