



June 4, 2012

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your February 20, 2012 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of officers of American Federation of Government Employees (AFGE) Local 1102 conducted on December 20, 2011. Section 458.29 of the Department's regulations makes the LMRDA applicable to federal-sector labor organizations that are subject to the requirements of the Civil Service Reform Act of 1978.

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

You alleged that campaigning occurred on employer time when [REDACTED], former vice-president and sergeant-at-arms candidate, introduced [REDACTED], candidate for president, to member [REDACTED], as the "new president" of Local 1102 during the workday while at an employer facility. Section 401(g) of the LMRDA prohibits the use of employer funds to promote a candidate. The term "employer funds" is broadly construed and can include the use of employer resources and facilities as well as employer-paid time. Campaigning incidental to regular union business is not a violation of section 401(g). 29 C.F.R. §452.76

The investigation confirmed that the incident occurred, however, the investigation revealed conflicting evidence about whether this incident occurred on employer time. In any event, the investigation revealed that even if this event occurred on employer time and could be characterized as campaigning, the campaigning was incidental to union business. [REDACTED] was at the employer facility on legitimate union business at the time of the incident. Moreover, even if [REDACTED] actions could be considered a violation of the LMRDA, the effect of the violation would be offset as the investigation revealed that you engaged in similar activity. The investigation revealed that while on employer time, you solicited support for your election from Local 1102 members [REDACTED],

██████████ and ██████████ There was no violation affecting the outcome of the election.

You alleged that Local 1102 violated section 401(e) of the LMRDA by failing to conduct its election in compliance with its constitution and bylaws and denying eligible members the opportunity to vote when the Election Chairperson improperly voided nine ballots received in the December 20, 2011 election. The investigation disclosed that the Election Chairperson disregarded five of the ballots in accordance with the AFGE Election Manual because they were not enclosed in envelopes which identified the sender as a union member who was eligible to vote. Additionally, she voided three ballots which were returned without the secret ballot envelope and one ballot in which the voter failed to mark the ballot in the manner required by the ballot instructions. The Department reviewed the nine ballots at issue and determined that the Election Chairperson's decision to invalidate these ballots was not unreasonable under the AFGE constitution or bylaws and did not violate the LMRDA.

Further, the Department's review of these ballots determined that, even if all nine ballots at issue were counted, the election outcome would not be affected. Under these circumstances, the Department would not rerun the election. There was no violation of section 401(e) of the LMRDA.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred that may have affected the outcome of the election.

Accordingly, this office has closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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