



July 22, 2015

[REDACTED]

[REDACTED]

Dear [REDACTED] and [REDACTED]:

This Statement of Reasons is in response to your April 29, 2015 complaint filed with the United States Department of Labor alleging that American Federation of Government Employees (AFGE) District 2 violated Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), as made applicable to elections of federal sector unions by Section 7120 of the Civil Service Reform Act of 1978, by overturning the results of the December 17, 2014 election of AFGE Local 3369 officers and ordering a new election for president and treasurer.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred.

Specifically, you alleged that AFGE 2nd District National Vice President Vincent Castellano had no valid reason for his February 25, 2015 decision to order the rerun. In his decision, Castellano determined that your campaign literature violated the campaign guidelines contained in Attachment 12, Section 5 of the AFGE Election Manual, which prohibits the use of the AFGE shield or logo on campaign materials where it is misleading and implies an endorsement. You allege that this decision—voiding the December 2014 election and ordering a rerun—was not reasonable, and thus violates the LMRDA.

The requirement set out in section 402(a) of the LMRDA, that a member exhaust internal union remedies before filing a Title IV complaint with the Department, was included to give unions a chance to correct election problems and deficiencies, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Department defers to union decisions on internal union election protests to conduct a new election. The Department will not seek to reverse a union's remedial decision to hold a new election unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the Act and holding a new election is unreasonable.

In this case, the Department's investigation revealed that you were the successful candidates in the December 2014 election—[REDACTED] and [REDACTED]. In conducting your campaign, you distributed combined campaign literature to the Local 3369 membership that contained the AFGE logo, AFGE shield, statements of endorsement from the AFGE Council 220 regional vice president and Local 3369 executive vice president, and a photograph of AFGE National President J. David Cox, Sr. Following the election, defeated candidates, [REDACTED] and [REDACTED] protested the election. In response to this protest, AFGE 2nd District National Vice President Vincent Castellano decided to order a new election.

Based on the Department's investigation and the general deference given to remedial actions taken by the union, the Department has determined that Castellano's decision to order a rerun was not unreasonable and thus does not violate the LMRDA. Although a union may not censor candidates' campaign literature, Castellano ultimately concluded that your campaign literature implied the endorsement of the National President. This interpretation is reasonable. Further, there is no evidence indicating that Castellano's decision to order a new election was biased or made in bad faith.

Finally, the May 22, 2015 union-ordered rerun resulted in the same outcome as the December 2014 election—with you as the successful candidates. The remedy you sought—reinstating the results of the December 2014 election with you as the successful candidates—is already in place.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA. Accordingly, we have closed the file on this matter.

Sincerely,

Stephen J. Willertz
Acting Chief, Division of Enforcement

cc: J. David Cox Sr., National President
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Christopher B. Wilkinson, Associate Solicitor
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