



March 10 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your September 9, 2015 complaint filed with the U.S. Department of Labor (Department) alleging that violations of 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, occurred in connection with the election of officers conducted by the American Federation of Government Employees, AFL-CIO (AFGE), Local Union 515 (Local 515) on May 22, 2015.

The Department conducted an investigation of your allegations. As a result of that investigation, the Department has concluded, with respect to each of your allegations, that there was no violation of the Act that may have affected the outcome of the election. Following is an explanation for this conclusion.

You alleged that Local 515 did not follow its nomination process when it allowed a retiree, [REDACTED], to be nominated for President without proof of his being a dues-paying member. and allowed several candidates to run that did not meet the ten-meeting attendance requirement contained in Local 515's bylaws. Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed, and that the election shall be conducted in accordance with the constitution and bylaws of the union insofar as they are not inconsistent with the provisions of the LMRDA. Article VI, Section 606, of the AFGE Local 515 bylaws and Appendix A of the AFGE National Constitution require that to be qualified as an officer or candidate for office, an individual must be a member in good standing for one year preceding the closing of the nominations and must have attended at least ten meetings in the previous year, unless incapacitated by illness.

The Department's investigation determined that [REDACTED], who was the incumbent Executive Vice President at the time of nominations, was nominated for President at the meeting. However, Local 515 could not verify his good standing at that time because he was a retired member who paid dues on an annual basis directly to the local, unlike the active VA employees who paid their dues through automatic bi-weekly payroll deductions. The day after the nominations meeting, Local 515 confirmed that [REDACTED] was a member in good standing and allowed him to run for office. The investigation confirmed that [REDACTED] had timely paid his dues for 2014 and 2015. Local 515 was not required to establish [REDACTED] membership at the nominations meeting. There was no violation of the Act.

You alleged that Local 515 allowed several candidates who did not meet the ten-meeting attendance requirement contained in Local 515's bylaws to run for office. The Department's investigation found that at a Local 515 membership meeting on January 21, 2015, the attendees discussed waiving the meeting attendance requirement due to concerns that the requirement was unfair to those members working outside of the main VA facility or the Miami VA Medical Center where meetings were held. No formal motion was made at that meeting, but there was no opposition to the waiver. The requirement was not listed as a candidate requirement on either the nomination notice or election notices mailed to all Local 515 members. In addition, the Department's records review found that none of the candidates running for office met the meeting attendance requirement.

While it was appropriate to waive the requirement in these circumstances, the Department's investigation concluded that Local 515 did not provide notice to members of the waiver. Section 401(c) of the Act requires unions to provide adequate safeguards to insure a fair election. Thus, a labor organization's discretion regarding the conduct of an election is circumscribed by a general rule of fairness, which would include notifying members of the waiver of a candidacy requirement. However, to the extent that the failure to provide proper notice was a violation, that violation had no effect on the outcome of the election, a statutory requirement that must also be met before an election is overturned. The waiver of the meeting attendance requirement was applied uniformly to all candidates, none of whom met the requirement, and the investigation did not identify any members who did not run for office because they would have been disqualified by the rule. Therefore, there is no basis for finding that there was a violation that may have affected the election outcome.

You next alleged that members were denied the opportunity to vote because the union had only one polling site, at the Miami VA Hospital, which was distant from many of the outpatient clinics where some members worked. Section 401(e) of the Act requires that every member in good standing must be given a reasonable opportunity to vote. The Department's investigation determined that the election committee conducted a

manual ballot, with absentee balloting available to those members who were unable to attend the election polls. The first election notice, sent on March 16, 2015, stated that written requests for absentee ballots could be sent to the designated P.O. Box and provided a cut-off date of May 4, 2015, giving members nearly two months to request ballots and a reasonable opportunity to vote. There was no violation of the Act.

You further alleged that eligible members were denied the right to vote when they requested an absentee ballot but did not receive one. You identified specific members whom you claim requested but did not receive absentee ballots. The Department's investigation showed that prior to the election, Local 515 took reasonable steps to process absentee ballot requests. Members were first notified of the procedures for absentee ballot requests on March 16, 2015, when the election notice was mailed. In an email dated April 21, 2015, the election chairperson also allowed members to request absentee ballots until May 14, 2015 by email or by telephone, as well as by mail. The election notice notified members that only absentee ballots received in the Election Committee Post Office Box by 4:30 p.m. on the day of the election, May 22, 2015, would be counted. The Department's investigation found that all ballots received were counted. In addition, the Department interviewed members you identified and reviewed records, which confirmed that every member who requested an absentee ballot and provided the union with an address received an absentee ballot. The Department did not uncover any evidence that Local 515 members were not mailed ballots they requested. There was no violation of the Act.

For the reasons set forth above, it is concluded that there was no violation of the Act that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement

cc: J. David Cox, Sr., National President  
American Federation of Government Employees, AFL-CIO  
80 F Street, NW  
Washington, DC 20001

Jennifer Turnbull, President  
AFGE Local 515  
1201 NW 16th Street, Room D-910  
Miami, FL 33125

Beverly Dankowitz, Acting Associate Solicitor for Civil Rights and  
Labor-Management

bcc: ATLNASDO DIS File: 410600611001  
OLMS/DOE/KING/FPB N-5119/202-693-1243/March 1, 2016

<b>Initials</b>				
<b>Date</b>	03/01/16	3/09/2016		
<b>Last Name</b>	KING	HANLEY		
<b>Title</b>	DOE Inv.	DOE Chief		

Case String: 410600611001 LM: 542260 DOE Number: 8885