



September 30, 2013

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your March 15, 2013 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), as made applicable to federal sector unions by 29 C.F.R. §458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. §7120, occurred in connection with the December 5, 2012 election of union officers held by Local Union 1012 of the American Federation of Government Employees (AFGE).

The Department of Labor conducted an investigation of each of your allegations. As a result of the investigation, the Department concluded that no violation of the LMRDA occurred that could have affected the outcome of the election.

You alleged that the incumbent candidate for president, Sharon Lake, was not a member in good standing qualified to hold office because she had not paid all of her yearly membership dues for the three years preceding the nominations. 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 section 504 and to reasonable qualifications uniformly imposed)."

The investigation confirmed AFGE's finding that Lake was current in paying her membership dues and has actually paid in advance through 2015. The Secretary-Treasurer of Local 1012 produced union records documenting Lake's dues payments for 2008-2015. Additionally, Lake provided the money order receipt for each of the dues payments. The Department found no evidence that Lake was not a member in good standing eligible to hold office. There was no violation.

You alleged that AFGE National Vice President [REDACTED] campaigned for Lake at the September 19, 2012 membership meeting. Section 401(g) of the LMRDA prohibits the use of any labor organization or employer funds "to promote the candidacy of any person in an election." During its investigation, the Department was

able to interview 13 of the 19 members who attended the meeting. None of these members heard [REDACTED] mention any aspect of the upcoming nominations or election. The majority of members agreed that there was no campaigning at the September meeting. The evidence indicates that [REDACTED] did not engage in any campaign activities at the meeting. Therefore, there was no violation.

You alleged that Local 1012 Secretary-Treasurer Moore-Wheeler did not submit an updated list of member addresses to the Election Committee and that many members did not receive an election notice. Section 401(e) of the LMRDA requires that at least "fifteen days prior to the election[,] notice thereof shall be mailed to each member at his last known home address." 29 C.F.R. § 452.99. You alleged that Moore-Wheeler emailed only 100 selected members to inform them of the upcoming election and remind them to update their addresses.

The investigation revealed that Moore-Wheeler maintains four lists of members' email addresses because they do not fit on one list in her Microsoft Office account. On the same day, Moore-Wheeler emailed the same message concerning the election to each of the four groups (she emailed all the members). You provided the names of two members you believed had not received an election notice-- [REDACTED] and [REDACTED] s [REDACTED]. The investigation revealed that both [REDACTED] and [REDACTED] voted in the election. Complainant [REDACTED] named only one member she believed had not received an election notice-- [REDACTED] [REDACTED] also voted in the election. The Department determined that election notices to 29 members were returned as undeliverable. However, Local 1012's election records show that 17 of these 29 members voted in the election. Additionally, Local 1012 had a high participation rate in the election (approximately 68% of its members voted). There was no violation.

You alleged that incumbent President Lake violated the AFGE Local 1012 Bylaws when she personally selected the election committee members and chairperson. The AFGE Local 1012 Bylaws require that the local elect an election committee at a regular meeting prior to the election. (Appendix B, Election by Manual Ballot, No. 2.) While the president may appoint the membership of most committees in consultation with the executive board, the president may not appoint the election committee. (Bylaws, Article 4, Section. 3.) Thus, Lake violated the Local 1012 Bylaws and Section 401(e) of the LMRDA which requires that a union conduct officer elections in accordance with its constitution and bylaws. In order for a union election to be overturned, there must be a finding that the violation of the LMRDA may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). There is no evidence that Lake's selection of volunteers for the election committee may have affected the outcome of the election in any way.

You alleged that Lake instructed Election Committee Chairperson [REDACTED] to place the candidates' names on the ballots in the order that they were nominated. During the investigation, you admitted that any election outcome was possible

regardless of how the names were placed on the ballot. But you thought that it was unfair for Lake to be involved in designing the ballot.

██████████ stated that Lake did not give the Election Committee any instructions; she merely inquired whether the candidates would be listed in the order that they were nominated. Prior to Lake's question, the Election Committee had already decided to list the candidates in the order they were nominated. Local 1012 had listed the candidates in that order in the past. The AFGE Constitution and Local 1012 Bylaws contain no instruction regarding the placement of names on the ballot. Even if true, your allegation would not constitute a violation and must be dismissed. *See* 29 C.F.R. § 458.64(a)(4).

You alleged that ██████████ prohibited campaigning in Building 6 where the union office is located. You acknowledged that you were allowed to campaign inside all of the other 25 Veterans Administration buildings and outside of Building 6.

The investigation showed that the union treated all the candidates equally and uniformly applied the campaign restriction. There was no violation that may have affected the outcome of the election.

You alleged that Lake and Moore-Wheeler used government equipment for campaign purposes. Specifically, you alleged that they emailed their campaign flyer to members' government accounts. You also questioned how the candidates obtained the personal email addresses of Local 1012 members.

The investigation revealed that Moore-Wheeler sent a campaign email from her personal email account to 98 people on November 27, 2012 at 10:41 p.m. She was not working at that time. Moore-Wheeler denied using her position as a union officer to obtain any members' personal email addresses. She stated that over the years she has accumulated friends' personal email addresses. The Department interviewed numerous members who received the email and confirmed that they gave Moore-Wheeler their personal email addresses because they are friends and/or exchange emails with her outside of work. You only alleged that Moore-Wheeler sent the email to two members' Veterans Administration (work) email addresses. At most, this influenced two members' votes in the election and could not have affected the outcome of any race because the smallest winning margin was 82 votes.

For the reasons set forth above, the Department of Labor concluded there was no violation of the LMRDA or the Civil Service Reform Act that could have affected the outcome of the election.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

cc: J. David Cox, National President
AFGE
80 F Street, N.W.
Washington, DC 20001

Sharon Lake, President
AFGE Local 1012
P.O. Box 124
Lyons, NJ 07939

Christopher Wilkinson, Associate Solicitor
Civil Rights and Labor-Management



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able to interview 13 of the 19 members who attended the meeting. None of these members heard [REDACTED] mention any aspect of the upcoming nominations or election. The majority of members agreed that there was no campaigning at the September meeting. The evidence indicates that [REDACTED] did not engage in any campaign activities at the meeting. Therefore, there was no violation.

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The investigation revealed that Moore-Wheeler maintains four lists of members' email addresses because they do not fit on one list in her Microsoft Office account. On the same day, Moore-Wheeler emailed the same message concerning the election to each of the four groups (she emailed all the members). You provided the name of only one member you believed did not receive an election notice-- [REDACTED]. The investigation revealed that [REDACTED] voted in the election. The two members named by Complainant [REDACTED] -- [REDACTED] and [REDACTED] -- also voted in the election. The Department determined that election notices to 29 members were returned as undeliverable. However, Local 1012's election records show that 17 of these 29 members voted in the election. Additionally, Local 1012 had a high participation rate in the election (approximately 68% of its members voted). There was no violation.

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Thus, Lake violated the Local 1012 Bylaws and Section 401(e) of the LMRDA which requires that a union conduct officer elections in accordance with its constitution and bylaws. In order for a union election to be overturned, there must be a finding that the violation of the LMRDA may have affected the outcome of the election. 29 U.S.C. § 482(c)(2). There is no evidence that Lake's selection of volunteers for the election committee could have affected the outcome of the election in any way.

You alleged that Lake instructed Election Committee Chairperson [REDACTED] to place the candidates' names on the ballots in the order that they were nominated.

During the investigation, Complainant ██████ admitted that any election outcome was possible regardless of how the names were placed on the ballot. ██████ stated that Lake did not give the Election Committee any instructions; she merely inquired whether the candidates would be listed in the order that they were nominated. Prior to Lake's question, the Election Committee had already decided to list the candidates in the order they were nominated. Local 1012 had listed the candidates in that order in the past. The AFGE Constitution and Local 1012 Bylaws contain no instruction regarding the placement of names on the ballot. Even if true, your allegation would not constitute a violation of the LMRDA and must be dismissed. *See* 29 C.F.R. § 458.64(a)(4).

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