



November 7, 2014



Dear [REDACTED]

This Statement of Reasons is in response to your December 30, 2013, complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), as incorporated for federal government employers by the Civil Service Reform Act of 1978, occurred in connection with the election of officers held by the American Federation of Government Employees (AFGE), Local 2052 on November 4, 2013.

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

You alleged that the union denied members the right to vote when the election notice stated that absentee ballots could be requested by e-mail, but did not include an e-mail address. Further, you alleged that some members did not receive absentee ballots. Section 401(e) provides each member in good standing the right to vote.

The investigation revealed that the election notice directed members to contact one of three identified election committee members to obtain an absentee ballot. All local members had access to the government e-mail system and election committee members' addresses could be found using the e-mail system's directory so members had sufficient information to obtain absentee ballots. Further, the investigation did not reveal any evidence of members who wanted to request an absentee ballot but could not or any evidence of members who had requested an absentee ballot, but did not receive it. Instead, the investigation confirmed that three members used the e-mail to request absentee ballots in the first election and seven members used e-mail to request absentee ballots for the runoff election. Accordingly, there was no violation.

Second, you noted that the absentee ballots were picked up two days before the election and you raised the issue of whether they were secured properly during the interim

period. Section 401(c) requires that adequate safeguards be provided to insure a fair election.

The Department learned through its investigation that the election committee chair retrieved four (4) absentee ballots on November 2, 2013, at 12:00 p.m., the time stated on the election notice for retrieval, and placed them in a sealed, signed envelope in the presence of an observer. This envelope remained in the election committee chair's car until the tally on November 4, 2013, at which time, the same observer inspected the envelope to ensure that it had remained sealed and there had been no tampering. A similar process was used in the runoff election. While the process followed by the union may have created a risk of tampering, there was no evidence of such in either of these elections. Accordingly, to the extent that a violation occurred, it did not have any effect on the elections.

Third, you alleged that some members did not receive your campaign literature, that the election committee did not provide you with the e-mail to the opposing slate regarding the rate the union charged for sending that slate's campaign literature, and that the opposing slate was not charged for its literature. These allegations implicate section 401(c), which imposes a duty on local labor organizations to comply with reasonable requests of any candidate to distribute campaign literature at the candidate's expense and to treat candidates equally with regard to requests for literature distribution.

The investigation revealed that there was no evidence that any members did not receive your campaign literature and that you and the opposing slate were charged the same amount (\$123.48). Accordingly, there was no violation.

Fourth, you alleged that the opposing slate campaigned at the polling site and to members who were working, including leaving campaign literature at the voting site. Your allegation implicates section 401(c)'s equal treatment provisions as well as section 401(g)'s prohibition against use of employer funds to promote the candidacy of any person in an election. In addition, Step 22 of AFG's Election Manual specifically states that the election committee "must permit no campaigning in or within 50 feet of the polling area."

The investigation disclosed that both slates campaigned more than 50 feet outside the polling area during the election, and no complaints were received regarding the opposing slate campaigning improperly. The candidates campaigned to members who were on break and on their way to vote. The opposing slate passed out a flyer that had the candidates' names on it, which some members may have taken with them when they voted. In addition, the investigation indicated that the election committee chair

made rounds during the election throughout the polling area to ensure that it was free from campaign literature. Accordingly, there was no violation.

Fifth, you alleged that the election committee campaigned with the opposing slate and had lunch with them during the polling. The allegation implicates section 401(c)'s equal treatment provisions. You stated that on the day of the election, the opposing slate brought the election committee Popeye's Chicken for lunch and that one of the election committee members stood outside the polling area with the opposing slate while they campaigned which created the impression that the election committee endorsed the opposing slate.

The Department learned from both a candidate from the opposing slate and a member of the election committee that this candidate offered to pick up lunch for election committee members because they could not leave the polling site. The offer was accepted by the committee members who gave the candidate the money for their lunches. The three committee members stayed in the polling area during the election each performing specific responsibilities without leaving the polling area, except for the period during which one committee member went outside to deliver the money for the lunches. Accordingly, there was no evidence of a violation.

Further, you alleged that employer e-mail accounts were used during the election, including communicating the absentee ballot pick-up time and place and as one avenue to request absentee ballots. The investigation confirmed that the use of employer e-mail accounts for union business was not prohibited by either the employer or the union and such use for conducting union business was a longstanding practice. Accordingly, there was no violation.

In your protest to the union and your complaint to the Secretary, you protested a number of aspects of the election that, even if true, would not be a violation of Title IV of the LMRDA.

You also alleged that members were restrained, harassed, intimidated, and coerced by the opposing slate when candidates approached members with their campaign literature, but you later withdrew this allegation.

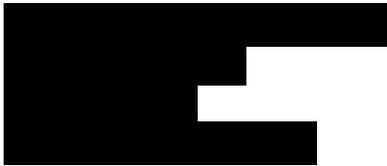
Last, in your complaint, you included several broad topics that were not investigated because they were not specific enough to constitute proper election protests.

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file regarding this matter.

Sincerely,

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Chief, Division of Enforcement

cc: J. David Cox, National President  
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