



January 12, 2016

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the Department of Labor on August 18, 2015, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), as made applicable to elections of federal sector unions by the Civil Service Reform Act of 1978, occurred in connection with the April 13, 2015, election of officers conducted by American Federation of Government Employees (AFGE) Local 1206.

The Department has determined that your complaint may not be considered because it was not timely filed with the Department. The following is an explanation of this conclusion.

Before a member of a labor organization may file an administrative complaint with the Department of Labor, the Department's regulations require the member to utilize "the remedies available under the constitution and bylaws of the labor organization and of any parent body." 29 C.F.R. § 458.63. A member who has exhausted those internal union remedies and has received a final decision from the union then has one calendar month within which to file an administrative complaint with the Department.

Part III of Appendix A to the AFGE National Constitution sets forth the internal exhaustion provisions for protesting and appealing elections. Those provisions include the following steps for local officer elections: A written protest must be made to the election committee prior to, during, or within ten days after the election. The election committee must attempt to resolve the protest or render a decision within 15 days after receipt of the complaint. The complainant may elevate the complaint by appeal, within 15 days of the due date of the election committee's decision, to the National Vice President (NVP). The NVP must issue a decision on the appeal within 30 days after receipt of the appeal. The NVP's decision "shall be the final determination." However, the National President has discretionary authority to review the NVP's decision if the complainant files an appeal within 15 days of receipt or the due date of the NVP's decision. AFGE National Constitution, Appendix A, part III, sections 2-5 (pp. 46-47).

By letter dated April 22, 2015, you filed a timely protest with the election committee, which was subsequently denied. On May 26, 2015, the AFGE District 12 Office received

your appeal of the election committee's decision. On June 25, 2015, AFGE District 12 NVP George McCubbin III issued a final decision denying your appeal. On June 29, 2015, you received NVP McCubbin's final decision.

You attempted to file an appeal with the AFGE National President by letter postmarked June 26, 2015. On June 29, 2015, the U.S. Postal Service tracking status of your appeal letter was updated to "Return to Sender." Your appeal letter was returned as undeliverable. You did not successfully appeal to the AFGE National President. The NVP's decision, which you received on June 29, 2015, remained AFGE's final decision.

Under the Department's regulations, you were required to file your complaint with the Department within one calendar month after exhausting the internal union remedies. The date you exhausted the internal union remedies was June 29, 2015, the date you are presumed to have received the NVP's final decision. You did not file an administrative complaint with the Department by July 29, 2015. You filed your complaint with the Secretary of Labor on August 18, 2015. Consequently, the Secretary does not have the authority to consider your complaint.

For the reasons set forth above, it is concluded that your complaint to the Department may not be considered because it was not timely filed. Accordingly, I have closed the file in this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

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