



August 12, 2019

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on May 13, 2019. The complaint alleged that a violation of Title IV of the Labor-Management Reporting Disclosure Act (LMRDA) occurred in connection with the February 9, 2019, officer election conducted by United Public Workers (UPW) American Federation of State, County, and Municipal Employees (AFSCME) Local 646.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation, that there was no violation of the LMRDA.

You alleged that Local 646 violated the LMRDA by placing an ineligible individual on the ballot. You claimed that [REDACTED] was not eligible to be nominated for the position of State Director on October 26, 2018, because he was not a member in good standing. You alleged that [REDACTED] eligibility for union membership was derived from his employment by the union as the State Director, a position to which he was elected on October 24, 2015, more than three years before his nomination for reelection. You contended that [REDACTED] employment as State Director terminated after three years, at 11:59 p.m. on October 23, 2018, and with it his union membership and eligibility for office. You based this argument in part on your understanding of Article 4, Section 1.d of the UPW AFSCME Local 646 constitution, which provides that the membership of an exempt employee of the union ceases when his or her employment is terminated. You also asserted that the language of the LMRDA compels the immediate removal of any local union officer at the end of the three-year term.

Section 401(e) of the LMRDA requires that members in good standing shall be eligible to be candidates and to hold office, subject to reasonable qualifications uniformly imposed. 29 U.S.C. § 481(e). The UPW AFSCME Local 646 constitution provides that an individual is eligible for State Director if he or she has been a member in good standing for at least the year preceding the nomination. UPW AFSCME Local 646 constitution,

Article 14, Section 4. A member falls out of good standing if his or her dues are not paid for more than 30 days. UPW AFSCME Local 646 Constitution, Article 4, Section 4.

The Department's investigation established that [REDACTED] met these candidate eligibility requirements. First, it determined that he was a member in good standing for the 12 months prior to the October 26, 2018, nominations. Second, the investigation established that [REDACTED] employment with the union was not terminated at the end of his three-year term, and his membership also did not cease at that time. While the LMRDA does require local union officers to be elected no less often than every three years, it does not compel the immediate removal of a local union officer at the end of the three-year term. *See* 29 U.S.C. § 481(b). Further, the AFSCME International Constitution provides that newly elected officers are to be installed into office within 10 days of counting the election ballots, and the prior officers remain in office until the newly elected officers are installed. AFSCME International Constitution, Appendix D, Section 2. There was no violation.

For the reasons set forth above, the Department concludes that no violation of the LMRDA occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

[REDACTED]

Brian A. Pifer
Chief, Division of Enforcement

cc: James Wataru, State President
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