



October 7, 2021



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on May 19, 2021, alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. §§ 481-83, as made applicable to elections of federal-sector unions by 29 C.F.R. § 458.29 and the Civil Service Reform Act, 5 U.S.C. § 7120. You alleged that violations occurred in connection with the union-ordered rerun of the December 30, 2020 regularly scheduled election of union officers conducted by Local 2063 of the American Federation of Government Employees (AFGE).

You alleged that AFGE District 10 improperly ordered Local 2063 to rerun its December 30, 2020 election. Section 402(a) of the LMRDA requires that a union member exhaust internal union remedies before filing a Title IV complaint with the Department. 29 U.S.C. § 482(a). This requirement was included in the LMRDA to give unions a chance to correct election problems and deficiencies themselves, thereby preserving a maximum amount of independence and encouraging responsible self-governance. In furtherance of this legislative objective, the Department accords a certain degree of deference to a union's decision to hold a new election in response to internal union election protests. The Department will not seek to reverse a union's remedial decision to hold a new election unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith; or the decision is otherwise contrary to the principles of union democracy embodied in the LMRDA and holding a new election was unreasonable.

The Department's investigation found that after receiving properly-filed protests related to the December 30, 2020 election, District 10 conducted an internal investigation and found that Local 2063 emailed its notice of election to members less than 15 days prior to the election. The Department's investigation confirmed this finding. Section 401(e) of the LMRDA requires that notice of election be mailed to members' last known address, and mailed no less than 15 days prior to the election. 29 U.S.C. § 481(e). Emailing notice of the election less than 15 days prior to the election failed to comply with the requirements of the LMRDA. Here, AFGE had valid reasons to conclude that a rerun of the election was the appropriate course of action.

As a related matter, you alleged that National Vice President (NVP) [REDACTED] decision to rerun the December 30, 2020 election did not comply with the AFGE Constitution. Appendix A, Part III sets forth the procedures for protesting an AFGE officer election. Part III, Section 3 states that a member may elevate a decision (or failure to issue a decision) by the local election committee to the appropriate NVP. Part III, Section 5 provides that the NVP shall issue a decision within 30 days of receiving the appeal. In this matter, the Department's investigation revealed that NVP [REDACTED] received a properly-filed appeal related to Local 2063's regular election on January 6, 2021, but did not order the rerun election until April 1, 2021.

Although NVP [REDACTED] did not issue the decision to rerun the election within 30 days, the facts remain that AFGE had legitimate reasons for ordering the rerun. Accordingly, this deviation from the timeline set forth in the AFGE Constitution does not alter the reasonableness of AFGE's decision. Given the degree of deference afforded unions when conducting their own internal affairs and the reasonableness of AFGE's decision based on the facts of this case, there was no violation of the LMRDA.

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 dismissed your complaint and closed its file in this matter. You may obtain a review of this dismissal by filing a request for review with the Director of OLMS within 15 days of service of this notice of dismissal. The request for review must contain a complete statement of facts and the reasons upon which your request is based. See 29 C.F.R. § 458.64(c).

Sincerely,

[REDACTED]

Tracy L. Shanker
Chief, Division of Enforcement

cc: [REDACTED], President
American Federation of Government Employees
80 F Street, NW
Washington, DC 20001

[REDACTED], Associate Solicitor
Civil Rights and Labor-Management Division