



Monday, May 01, 2023

[REDACTED]

Dear [REDACTED]

I am writing in response to your January 17, 2023 letter requesting a review of the Office of Labor-Management Standards (OLMS) San Francisco-Seattle District Office's determination to not accept your complaint concerning your permission to join the American Federation of Government Employees (AFGE) Local 228 as a retired member. Your December 21, 2022 complaint alleged that AFGE Local 228 violated the standards of conduct provisions of the Civil Service Reform Act of 1978 (CSRA) because you were not allowed to join AFGE Local 228 as a retired member.

The District Director of the OLMS San Francisco-Seattle District Office made a formal determination in a letter dated January 3, 2023 not to accept your December 21, 2022 complaint, concluding that your allegation of inability to join the union as a retired member is not a violation to the CSRA, 5 U.S.C. § 7120(c), *et seq.*, and that there was not a reasonable basis for your complaint. Your request for review was made pursuant to 29 C.F.R. § 458.59 and was acknowledged in a letter dated February 9, 2023. For the reasons explained below, I affirm the decision of the District Director to dismiss your complaint, as you have failed to allege a violation of a CSRA union member bill of rights provision.

OLMS enforces certain provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, which promotes union democracy and financial integrity in private sector unions. OLMS also enforces similar provisions applicable to federal sector unions pursuant to the Standards of Conduct provisions of the CSRA and its implementing regulations, 29 C.F.R. Part 458. The CSRA requires that the regulations implementing the Standards of Conduct must conform to the principles applicable to private sector labor organizations. 5 U.S.C. § 7120(d). The CSRA also requires that the regulations implementing the Standards of Conduct conform to the principles applicable to private sector labor organizations. 5 U.S.C. § 7120(d); 29 C.F.R. § 458.1. Accordingly, in applying the standards of the CSRA union member bill of rights, OLMS is guided by the interpretations and policies it follows in applying the analogous LMRDA provisions, *e.g.*, section 101 of the LMRDA, 29 U.S.C. § 411, as well as applicable court decisions. 29 C.F.R. § 458.1.

The role of an OLMS District Director upon receipt of a timely complaint from a union member alleging a violation of the member's Bill of Rights is to obtain such additional information as they deem necessary and then determine if there is a reasonable basis for the complaint. *See* 29 C.F.R. §§ 458.57 and 58. Thus, a District Director must determine whether

the allegations raise matters that are arguably covered by the bill of rights provisions of the regulations and whether there is some evidence to support the allegations.

If a District Director determines that the complaint is timely and there is a reasonable basis for it, they refer the case to the Chief Administrative Law Judge, U.S. Department of Labor, for issuance of a notice of hearing. 29 C.F.R. § 458.60. If a District Director determines that the complaint is not timely or matters raised do not arguably implicate the Bill of Rights provisions, then they will send the complainant a letter dismissing the complaint and providing appeal rights. 29 C.F.R. §§ 458.58 and 59. Upon receipt of a timely submitted appeal, the OLMS Director may review the District Director's decision to dismiss the complaint. *See* 29 C.F.R. § 458.59. A determination to not open a bill of rights investigation or to dismiss a bill of rights complaint may be reviewed by the OLMS Director only on the basis of deciding whether the decision to dismiss was arbitrary and capricious. The request for review must be made within 15 days after service of the notice of dismissal. *Id.*

I have carefully reviewed your request for review and all the materials associated with your complaint, and I am dismissing your appeal because the CSRA bill of rights provisions do not include the right to obtain retired member status within one's union. Your complaint also does not assert a violation of the safeguards against improper disciplinary action. You alleged that AFGE Local 228 improperly rejected your application for retired member status because you submitted it late. Thus, you have failed to allege a violation of a CSRA bill of rights provision.

As a result, I affirm the decision of the OLMS San Francisco-Seattle District Office to dismiss your complaint for failing to allege a violation of a CSRA bill of rights provision.

Sincerely,



Jeffrey Freund
Director