



January 11, 2012

Dear [REDACTED]:

This Statement of Reasons is in response to your September 27, 2011 complaint filed with the United States Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers of the American Federation of Government Employees (AFGE) Local 2452 conducted on May 30, 2011. Section 458.29 of the Department's regulations makes the LMRDA applicable to federal-sector labor organizations such as AFGE Local 2452 that are subject to the requirements of the Civil Service Reform Act of 1978. *See* 29 C.F.R. § 458.29.¹

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

You alleged that the local violated the AFGE constitution and Local 2452 bylaws when it did not provide for the election of alternate delegates. You further alleged that the local did not follow the procedures provided for in the constitution in amending its bylaws to eliminate the position of alternate delegate. You stated that you and other members decided not to run for delegate because of the elimination of the alternate delegate position.

The investigation revealed that the AFGE constitution has language referencing the election of alternate delegates. Appendix A, Part I, Section 5(i) provides that "[t]he candidate(s) for delegate receiving the most number of votes will be elected to the [delegate] position(s). If the number of delegate candidates exceeds the number of positions to be filled, then the candidates receiving the greatest number of votes will be

¹ All references in this Statement of Reasons will be to the LMRDA and its sections. In each instance, however, the reference should be understood as "the Act [or section of the Act] insofar as made applicable to elections of federal-sector unions by 29 C.F.R. § 458.29."

elected as delegates, *and the remaining candidates will be elected alternate delegates unless otherwise stated in local bylaws.*" (Emphasis added.) Further, the AFGE Constitution, Appendix B, Standard Local Union Constitution, Article IX, Section 1 states, "Delegates, alternate delegates, and proxy delegates to the AFGE National Convention, district caucus, council meetings, and other such meetings must be elected by name and in accordance with applicable provisions of the AFGE National Constitution."

The investigation further revealed that, at a meeting held on May 30, 2009, Local 2452 officers attempted to amend the local bylaws by adding the following sentence to Section 17: "We do not have alternate delegates." However, the investigation determined that the local did not follow the AFGE constitution in amending its bylaws. Article XI, Section 2 of the AFGE constitution states, "Bylaws shall be adopted and amended only after a one month notice to the local's membership and by two-third vote of members, either present at a membership meeting and voting, with provision for absentee vote, or by mail ballot." Only members who attended the meeting had the opportunity to vote on the proposed change: Local 2452 did not provide for absentee voting or mail ballots.

Inasmuch as Local 2452's governing documents provided for the election of alternate delegates and the local did not properly amend its bylaws to eliminate the alternate delegate position, the local violated the AFGE constitution by not allowing for alternate delegates in the manner proscribed by the constitution and bylaws.

However, the local's failure to follow the AFGE constitution in amending its bylaws and in providing for alternate delegates does not violate the LMRDA. The provisions of Title IV of the LMRDA are applicable to the election of union officers. Alternate delegates are not "officers" within the meaning of 29 U.S.C. § 402(n) of the Act. That section defines "officer" as "any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body."

The investigation revealed that alternate delegates do not perform these functions and are not members of the local's governing body. They are not officers, and their election is not governed by the LMRDA. The election of *delegates* must conform to the LMRDA where delegates are to nominate or elect officers of a national, international labor organization or an intermediate body. In such cases, delegates must be elected by secret ballot among the members in good standing of the labor organization they represent, even though such delegates are not "officers" of the organization. See 29 C.F.R. § 452.22.

However, where, as here, there is no showing that an alternate delegate became a delegate who was to participate in or who participated in an election of union officers, the provisions of Title IV of the LMRDA are not implicated. Therefore, the Department has concluded that there was no violation of Title IV.

Accordingly, we have closed our file on this matter.

Sincerely,

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Chief, Division of Enforcement

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