



December 19, 2012

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the U.S. Department of Labor on June 14, 2012, alleging that violations of the election provisions of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 481, as made applicable to the elections of federal sector unions by 29 C.F.R. § 458.29 and the Civil Service Reform Act of 1978, 5 U.S.C. § 7120, occurred in connection with the election of officers conducted March 8, 2012, by Local 2585, American Federation of Government Employees (AFGE). The Department of Labor conducted an investigation of your allegations. As a result of our investigation, the Department has concluded, with respect to your allegations, that there was no violation of the LMRDA.

You alleged that management did not give all candidates an opportunity to speak at the annual refresher training. In particular, you alleged that Chief Steward Clellan Tyson, candidate for president, campaigned for himself at the annual refresher training, while other candidates were not afforded the same opportunity. Section 401(g) provides that no money of a labor organization or an employer is to be contributed or applied to promote the candidacy of any person in an election subject to the provisions of Title IV. Campaigning by union stewards on employer or union time with the approval of the employer would violate section 401(g) unless it can be shown that they are on legitimate work assignments, and that their campaign activities are only incidental to the performance of their assigned task and do not interfere with its performance. *See* 29 C.F.R. §452.78.

The investigation established that each year the employer requires that its employees attend a four-day Annual Refresher Training session at which the union is given about 40 minutes on one day to address the attendees. The investigation revealed that Tyson, who was then the local's chief steward, was both on union official time and employer time when he presented the "Union Overview" to the attendees at the training sessions. The Department was able to contact two of your three witnesses and both stated that there was no campaigning during the union presentation. Also, Tyson denied campaigning for himself or for any other candidate during the union presentations.

Furthermore, the investigation did not reveal any evidence of campaigning during the training sessions. There was no violation of the LMRDA.

You also alleged that the employer assigned Tyson to work in the lobby of the prison administration building, near the polling room, on the day of the election so that he could campaign to voters during his work shift, while other candidates were not given the same opportunity. The investigation established that the election took place in a conference room off the lobby of the administration building. The evidence revealed that, on the day of the election, Tyson was in the lobby because he had been assigned to collect signatures for the Special Housing Unit log. Associate Warden [REDACTED] confirmed that the lobby would be a logical place for Tyson to collect the needed signatures since all employees come through the lobby to enter the facility. There was no evidence that Tyson engaged in campaigning while he was in the lobby collecting signatures. While two of your witnesses confirmed that Tyson was standing in the lobby, neither one saw or heard him campaigning. The third witness you identified could not be located.

For the reasons set forth above, the Department has concluded that there was no violation of 29 C.F.R. § 458.29, and I have closed the file regarding this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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