



March 13, 2012

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the Department of Labor on February 10, 2011, alleging that violations of the election provisions of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 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, occurred in connection with the election of delegates conducted October 20, 2010, by Local 2109, American Federation of Government Employees. You also filed a complaint concerning the union's September 10, 2010 officer election, which led to a new officer election supervised by the Department.

You alleged that Local 2109 failed to provide you with a reasonable opportunity to nominate candidates for delegate because you were unable to attend the nomination/election meeting due to personal reasons. Section 401(e) of the LMRDA provides that a reasonable opportunity shall be given for the nomination of candidates for office. The investigation revealed that the combined nomination and election notice was mailed to all members, emailed to regular members, and posted on bulletin boards, stating that mail-in self-nominations, nominations, and acceptances would be accepted until October 19, 2010. During the investigation, you admitted that you were aware that you could have mailed in a self-nomination, but you chose not to do so when you decided not to run for a delegate position. The investigation did not reveal any evidence of any member who was not able to participate in the nomination process. There was no violation.

You alleged that Local 2109 failed to provide proper notice that nominations from the floor would be accepted along with mail-in nominations. The investigation revealed that the combined nomination and election notice stated, "Nominations for five delegates and six alternates to the National VA Council (C-53) Convention to be held November 8 - 12, 2010, in Los Angeles, CA will be conducted at a meeting to be held on October 20, 2010." It is reasonable to infer from this statement that nominations would be taken from the floor during the nomination portion of the meeting. The investigation

revealed that Local 2109's past practice is to accept nominations from the floor. There was no violation.

You alleged that Local 2109 denied members the opportunity to vote because members had to be present to vote in the delegate election and certain worksites were between 31 and 128 miles from the polling place. Section 401(e) of the LMRDA provides that every member in good standing shall have the right to vote for or otherwise support the candidate of his choice. Under certain circumstances, the use of a single polling place may deprive widely disbursed members of the opportunity to vote. 29 CFR § 452.94. The investigation established that members had the opportunity to mail in nominations, but had to be present at a single polling place to vote for the delegates. The investigation also established that there were only five nominees for the five delegate positions available and only six nominees for the six alternate delegate positions available. Thus, even if some members were denied the opportunity to vote because they were widely dispersed, the outcome of the election would not have been affected because the number of nominees for each office did not exceed the number of positions available. There was no violation.

In your complaint, you also raised a variety of issues that are outside the scope of the Secretary's investigation. These issues were not timely protested under the local's election protest procedures and thus may not be filed with the Department. See 29 U.S.C. § 482. Consequently, the Secretary lacks the authority to consider the merits of these issues. 29 C.F.R. § 452.136(a).

For the reasons set forth above, the Department has concluded that there was no violation of the LMRDA and I have closed the file regarding this matter.

Sincerely,

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Chief, Division of Enforcement

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