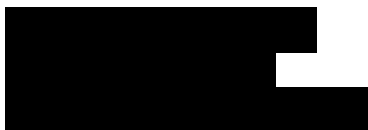




January 10, 2013



Dear [REDACTED]

This Statement of Reasons is in response to your June 18, 2012 complaint to the Department of Labor alleging that Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) as made applicable to 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, was violated in connection with the regularly scheduled election of officers conducted on March 2, 2012 by Local 547 American Federation of Government Employees (AFGE).

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your specific allegations that either no violation of the LMRDA occurred or that the issues raised were moot.

You alleged that the AFGE Fifth District National Vice President exceeded the scope of your internal election protest to the local election committee when he ordered new nominations to be included in his decision to re-run Local 547's March 2, 2012 election. Section 402(a) of the LMRDA requires that union members exhaust internal union remedies prior to filing a complaint with the Department. Congress included the exhaustion requirement in order to give unions "great latitude in resolving their own internal controversies" regarding the validity of officer elections. *Calhoon v. Harvey*, 379 U.S. 134, 140 (1964). In order to carry out this policy, the Secretary grants a degree of deference to decisions on internal union election protests. Even if the evidence would have been arguably insufficient to justify a decision by the Secretary to sue to overturn an election that was subsequently overturned by the union itself, the Secretary will not sue to overturn the union's remedial decision unless there is evidence that the decision was motivated by a desire to give the losing faction another opportunity to win the election, or unless the union's decision was based upon the application of an election or eligibility rule which violates the LMRDA.

The local's internal remedies are set forth in various sections of Appendix A, Part III, of the AFGE Constitution. A complaining member must submit a written protest to the local election committee within 10 days after the election and may appeal the decision of the election committee to the respective National Vice President. If the National Vice President finds a violation occurred that may have affected the outcome of the election, he or she shall order a new or rerun election under his or her supervision or a designated representative. The National Vice President's decision is final, with certain exceptions not applicable here.

The investigation disclosed that you filed a timely internal protest to the local election committee alleging, among other things, that the local's election notice did not provide members with the requisite 15-day notice mandated under section 401(e) of the LMRDA. The election committee agreed with you. The NVP, after receiving other election protests regarding the same election, notified the local election committee that the AFGE Fifth District would re-run Local 547's election.

On June 7, 2012, the AFGE Fifth District mailed a combined nomination and election notice to Local 547 members. You object to the inclusion of new nominations in the re-run election as you did not allege any nominations violations in your internal protest. However, the NVP had the constitutional authority to order a new election and to supervise it. See Section 4, Appendix A, Part III, AFGE Constitution. Nothing in Section 4 precludes the NVP from ordering new nominations when he orders a new election. Moreover, the NVP was not limited to the scope of your allegations, as he received election protests from other Local 547 members. Based on the allegations presented to him, the NVP concluded that new nominations should be included to mitigate against any potential undue influence of the local president.

It is noteworthy that you filed your complaint with the Department after the AFGE Fifth District decided to rerun Local 547's election. Consequently, the union resolved the issue in your favor, prior to your seeking federal intervention. As noted above, unions enjoy wide latitude when determining that a new, remedial election must take place to correct problems it finds during its internal investigation of challenges. Here, both the local election committee and the AFGE Fifth District held in your favor, finding a violation of the election notice for the March 2, 2012 election that may have affected the outcome of the election. The investigation showed no evidence that the NVP's decision to open nominations was politically motivated. The NVP's decision was reasonable, within the scope of his authority under the AFGE Constitution, and therefore entitled to deference. There was no violation.

In addition, you alleged that the AFGE Fifth District's re-run election did not include delegate positions. The investigation disclosed that on July 13, 2012, the Fifth District held a special delegate election. There was no violation.

You also made other allegations that are now moot. Included in those allegations are that the local provided too little time between the mailing and counting of the ballots, and that the local failed to provide a duplicate ballot procedure. The investigation disclosed that on June 19, 2012, the National placed Local 547 in trusteeship, based on findings of potential financial misconduct and dismissed all of the officers. There is no indication that your complaint was related to the decision to impose the trusteeship. A trusteeship is presumed valid for eighteen months from the day of its imposition. 29 U.S.C. §464(c). Thereafter, a new election is required, including new nominations, to remove the trusteeship. Because the officers elected in the election of which you complained are no longer in office and a new election will be conducted at the end of the trusteeship, your allegations are moot.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, I have closed the file on this matter.

Sincerely,

Patricia Fox
Chief, Division of Enforcement

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