



September 15, 2015



Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed with the Department of Labor on February 5, 2015, 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 November 25, 2014, by Local 2109 (Local or union), American Federation of Government Employees (AFGE).

You alleged that AFGE's 10th District (District 10) National Vice President's (NVP) decision to rerun the November 25, 2014 election was improper. The requirement set out in section 402(a) of the LMRDA, 29 U.S.C. § 482(a), that a member exhaust internal union remedies before complaining to the Secretary of Labor regarding a violation of the LMRDA was included in the Act to give unions a chance to correct election problems and deficiencies, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Secretary accords a degree of deference to decisions on internal union election protests providing for the conduct of a new election. The Secretary will not seek to reverse a union's remedial decision to hold a new election, even if the evidence could be viewed as insufficient to support a decision by the Secretary to sue to overturn the original election, unless it is apparent that the decision was based on the application of a rule that violated the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity; or the decision is otherwise contrary to the principles of union democracy embodied in the statute.

The Department's investigation established that AFGE District 10's decision to rerun the election was based on a complaint received from [REDACTED] candidate for the office of Executive Vice President, challenging the November 25, 2014 Election. The union's investigation of that complaint established a number of irregularities: the local conducted a mail ballot election rather than the polling place election required by the constitution and bylaws; the election committee did not treat all candidates equally with respect to distribution of campaign literature; the election committee failed to mail

candidate campaign literature before mailing the ballot packages in violation of the AFGE Election Manual; the election committee did not prepare an official ballot certification and reconciliation; the election committee did not hold a meeting with the candidates to discuss the election and campaign rules as required by the Election Manual and the constitution and bylaws; the election committee failed to notify candidates of their right to have an observer as required by the AFGE Election Manual and Local 2109's Constitution and Bylaws; the election committee failed to secure a second post office box for undelivered ballot packages and failed to correct addresses for returned undeliverables.

The Department of Labor investigation confirmed the union's findings with respect to these matters. AFGE District 10's decision to hold a new election in order to ensure the integrity of and confidence in its election process, under these facts, does not violate the LMRDA. The decision to conduct a rerun election was not based on the application of a rule that violated the LMRDA, was not made in bad faith, nor was the decision contrary to the principles of union democracy embodied in the statute.

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,

Stephen J. Willertz
Acting Chief, Division of Enforcement

cc: J. David Cox Sr., National President
American Federation of Government Employees
80 F Street N.W.
Washington, D.C. 2001

Cheryl Eliano, National Vice President
AFGE 10th District

[REDACTED]

Christopher Williamson, Associate Solicitor
for Civil Rights and Labor Management