



March 31, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to a complaint that you filed with the Department of Labor on October 13, 2015, and the complaints that [REDACTED] and [REDACTED] filed separately with the Department on October 20, 2015. The complaints alleged that a violation of 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, occurred in connection with the rerun election of officers conducted by Local 0003, American Federation of Government Employees (AFGE), on March 25, 2015.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to the specific allegation, that there was no violation of the LMRDA. Following is an explanation of this conclusion.

You alleged that the District 7 National Vice President's decision overturning the March 25, 2015 rerun election of Local 0003 officers and ordering a new election was arbitrary and capricious and infringed upon the basic rights of union members to participate in the electoral process.

The standard applicable to the Secretary in deciding whether a new election is required, *i.e.*, the finding of a violation that may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA envisions providing unions an opportunity to correct election problems and deficiencies before complaints are filed with the Secretary of Labor, 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 Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the statute and holding a new election is unreasonable.

The Department of Labor investigation revealed that the District 7 National Vice President ordered a new election after finding that a candidate had violated Appendix A, part I, section 4(b) of the AFGE Constitution. This provision prohibits the use of an employer resource to promote a person's candidacy. Section 401(g) of the LMRDA contains the same prohibition. Specifically, the District 7 National Vice President found that [REDACTED] violated the prohibition when she used the employer email system to disseminate a letter to members the day before the March 2015 rerun election. The District 7 National Vice President further found that the email constituted campaign material as in terms of tone and content it promoted the election of certain candidates, and it was sent proximate to the March 2015 rerun election.

The Department's investigation confirmed the District 7 National Vice President's findings. Indeed, the Department's investigation showed that, on the day before the March 2015 rerun election, Local 0003's [REDACTED], used the agency's email system to disseminate an email message supportive of her candidacy for Local 0003 president, and the candidacies of you and [REDACTED], who ran for [REDACTED], respectively. You and [REDACTED] were successful in your bids for election. [REDACTED] received a plurality of the votes cast for executive vice president, but he was not declared the winner of that office because he failed to receive a majority of the votes cast, as required by Local 0003's bylaws.

The District 7 National Vice President's decision to overturn the election and order a new election was not based on the application of a rule that violated the LMRDA, made in bad faith, or contrary to the principles of union democracy embodied in the statute. In fact, violations of the election provisions of the LMRDA and the AFGE Constitution occurred during the 2015 rerun election of Local 0003 officers. Ordering a rerun election did not violate the Act.

Accordingly, we are closing our file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: J. David Cox, National President
American Federation of Government Employees
80 F. Street, NW
Washington, DC 20001

AFGE Local 0003
ATTN: Local President
5000 West National Avenue
Lockbox 133
Milwaukee, WI 53295

Beverly Dankowitz, Acting Associate Solicitor
Civil Rights and Labor-Management Division



March 31, 2016

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to a complaint that Joseph Junemann filed with the Department of Labor on October 13, 2015, and the complaints that you and [REDACTED] filed separately with the Department on October 20, 2015. The complaints alleged that a violation of 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, occurred in connection with the rerun election of officers conducted by Local 0003, American Federation of Government Employees (AFGE), on March 25, 2015.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to the specific allegation, that there was no violation of the LMRDA. Following is an explanation of this conclusion.

You alleged that the District 7 National Vice President's decision overturning the March 25, 2015 rerun election of Local 0003 officers and ordering a new election was arbitrary and capricious and infringed upon the basic rights of union members to participate in the electoral process.

The standard applicable to the Secretary in deciding whether a new election is required, *i.e.*, the finding of a violation that may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA envisions providing unions an opportunity to correct election problems and deficiencies before complaints are filed with the Secretary of Labor, 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 Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the

decision is otherwise contrary to the principles of union democracy embodied in the statute and holding a new election is unreasonable.

The Department of Labor investigation revealed that the District 7 National Vice President ordered a new election after finding that a candidate had violated Appendix A, part I, section 4(b) of the AFGE Constitution. This provision prohibits the use of an employer resource to promote a person's candidacy. Section 401(g) of the LMRDA contains the same prohibition. Specifically, the District 7 National Vice President found that you violated the prohibition when you used the employer email system to disseminate a letter to members the day before the March 2015 rerun election. The District 7 National Vice President further found that the email constituted campaign material as in terms of tone and content it promoted the election of certain candidates, and it was sent proximate to the March 2015 rerun election.

The Department's investigation confirmed the District 7 National Vice President's findings. Indeed, the Department's investigation showed that, on the day before the March 2015 rerun election, you (as Local 0003's [REDACTED]) used the agency's email system to disseminate an email message supportive of your candidacy for Local 0003 president, and the candidacies of [REDACTED] [REDACTED] respectively. You and [REDACTED] were successful in your bids for election. [REDACTED] received a plurality of the votes cast for [REDACTED], but he was not declared the winner of that office because he failed to receive a majority of the votes cast, as required by Local 0003's bylaws.

The District 7 National Vice President's decision to overturn the election and order a new election was not based on the application of a rule that violated the LMRDA, made in bad faith, or contrary to the principles of union democracy embodied in the statute. In fact, violations of the election provisions of the LMRDA and the AFGE Constitution occurred during the 2015 rerun election of Local 0003 officers. Ordering a rerun election did not violate the Act.

Accordingly, we are closing our file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: J. David Cox, National President
American Federation of Government Employees

80 F. Street, NW
Washington, DC 20001

AFGE Local 0003
ATTN: Local President
5000 West National Avenue
Lockbox 133
Milwaukee, WI 53295

Beverly Dankowitz, Acting Associate Solicitor
Civil Rights and Labor-Management Division



March 31, 2016

Dear [REDACTED]:

This Statement of Reasons is in response to a complaint that [REDACTED] filed with the Department of Labor on October 13, 2015, and the complaints that you and [REDACTED] filed separately with the Department on October 20, 2015. The complaints alleged that a violation of 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, occurred in connection with the rerun election of officers conducted by Local 0003, American Federation of Government Employees (AFGE), on March 25, 2015.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to the specific allegation, that there was no violation of the LMRDA. Following is an explanation of this conclusion.

You alleged that the District 7 National Vice President's decision overturning the March 25, 2015 rerun election of Local 0003 officers and ordering a new election was arbitrary and capricious and infringed upon the basic rights of union members to participate in the electoral process.

The standard applicable to the Secretary in deciding whether a new election is required, *i.e.*, the finding of a violation that may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA envisions providing unions an opportunity to correct election problems and deficiencies before complaints are filed with the Secretary of Labor, 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 Department will not seek to reverse a union's remedial decision to hold a new election, unless it is apparent that the decision was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the

decision is otherwise contrary to the principles of union democracy embodied in the statute and holding a new election is unreasonable.

The Department of Labor investigation revealed that the District 7 National Vice President ordered a new election after finding that a candidate had violated Appendix A, part I, section 4(b) of the AFGE Constitution. This provision prohibits the use of an employer resource to promote a person's candidacy. Section 401(g) of the LMRDA contains the same prohibition. Specifically, the District 7 National Vice President found that [REDACTED] violated the prohibition when she used the employer email system to disseminate a letter to members the day before the March 2015 rerun election. The District 7 National Vice President further found that the email constituted campaign material as in terms of tone and content it promoted the election of certain candidates, and it was sent proximate to the March 2015 rerun election.

The Department's investigation confirmed the District 7 National Vice President's findings. Indeed, the Department's investigation showed that, on the day before the March 2015 rerun election, Local 0003's [REDACTED], used the agency's email system to disseminate an email message supportive of her candidacy for Local 0003 president, and the candidacies of you and [REDACTED] [REDACTED], respectively. [REDACTED] and [REDACTED] were successful in their bids for election. You received a plurality of the votes cast for [REDACTED], but you were not declared the winner of that office because you failed to receive a majority of the votes cast, as required by Local 0003's bylaws.

The District 7 National Vice President's decision to overturn the election and order a new election was not based on the application of a rule that violated the LMRDA, made in bad faith, or contrary to the principles of union democracy embodied in the statute. In fact, violations of the election provisions of the LMRDA and the AFGE Constitution occurred during the 2015 rerun election of Local 0003 officers. Ordering a rerun election did not violate the Act.

Accordingly, we are closing our file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: J. David Cox, National President
American Federation of Government Employees

80 F. Street, NW
Washington, DC 20001

AFGE Local 0003
ATTN: Local President
5000 West National Avenue
Lockbox 133
Milwaukee, WI 53295

Beverly Dankowitz, Acting Associate Solicitor
Civil Rights and Labor-Management Division