



May 15, 2018



Dear [REDACTED]

This Statement of Reasons is in response to your July 20, 2017 complaint filed with the United States Department of Labor (Department) alleging violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA or Act) occurred in connection with the May 6, 2017 election of officers of the American Federation of Government Employees (AFGE), District 10.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that there was no violation that may have affected the outcome of the election.

Initially, certain of the allegations in your complaint refer to the election for the position of National Fair Practices Affirmative Action Coordinator (NFPAAC). Section 401(n) of the LMRDA provides that the officer positions covered by the Act include constitutional officers and any officer authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, or members of the executive board or similar governing body. The position of NFPAAC does not fall within any of these categories. Thus, to the extent your allegations relate to the NFPAAC race or your candidacy in that race, they are not discussed in this Statement of Reasons.

Turning to your specific allegations, you alleged that National Vice President (NVP) Cheryl Eliano violated Section 401(g) of the LMRDA by using union funds to campaign when she took several AFGE District 10 members to a training event in San Diego, California. The Department's investigation revealed that this event was a leadership training conducted by three AFGE districts for local officers. No attendees at this training contacted by the Department witnessed any campaigning for the District 10 election. Additionally, you alleged that Ms. Eliano improperly selected three of the training attendees to later serve on the Credentials Committee. However, pursuant to the 2017 District Caucus Election Manual, the Credentials Committee is properly

appointed by the NVP, and no facts were alleged or discovered that indicated the appointments were improper. There was no violation of the Act.

You further alleged that Ms. Eliano violated Section 401(g) by using union funds to pay for a hospitality suite for campaigning, as well as for gifts and free rooms for caucus attendees. Ms. Eliano stayed in a mini-suite during the caucus, but the Department's investigation did not reveal any evidence that Ms. Eliano campaigned in her suite. However, the Department's investigation did reveal evidence that District 10 paid for a hotel room for one night for [REDACTED] to use after the awards banquet, which was held after the election. Although Ms. Eliano agreed to provide [REDACTED] with this room before the election took place, the Department did not find any evidence that supplying [REDACTED] with a room was related to Ms. Eliano's campaign. Thus, there was no violation of the Act. Moreover, even if this were a violation of the LMRDA, it could not have affected the outcome of the election, because [REDACTED] cast 356 votes, and Ms. Eliano won the NVP race by a margin of 20,510 votes.

You next alleged that some candidates, including you, were not informed of the TrueBallot e-mail campaign process. Section 401(c) of the LMRDA provides that labor organizations must comply with reasonable requests by candidates to distribute campaign literature at the candidate's expense, and prohibits disparate candidate treatment. The Department's investigation revealed that your copy of the e-mail describing the TrueBallot campaigning process was inadvertently sent to another member of Local 2341 with a very similar name to yours. Ultimately, you received the information on how to conduct a campaign mailing via TrueBallot at least fifteen days prior to the election, but you chose not to do an e-mail campaign distribution. Further, you could not identify any other candidates who did not get the email and were deprived of the opportunity to make a campaign mailing via TrueBallot. There was no violation of the LMRDA.

You further allege that members of the Credentials Committee improperly arrived at the caucus 96 hours early, allowing them more time to campaign than other candidates. Section 401(c) of the LMRDA prohibits disparate candidate treatment. The Department's investigation revealed that there are no provisions establishing when the Credentials Committee is allowed to arrive at the caucus, nor are there any provisions detailing when candidates are allowed to post campaign materials at the caucus. Moreover, there was no evidence of any candidate being denied the opportunity to campaign upon his or her arrival at the caucus. As such, there was no violation of the LMRDA.

Next, you alleged that the union failed to follow the constitution and bylaws in certain respects, in violation of Section 401(e) of the LMRDA. You alleged that the District utilized an inconsistent credentialing process in violation of Article VI and Appendix C

of the Constitution. During the investigation, the Department confirmed that delegates from at least nine locals were improperly seated. However, there were at least sixty-four properly credentialed delegates that cast 10,773 votes. Given this, the 20,241 remaining votes for all other delegates, even if improper, could not have affected the outcome of the election, because the margin of victory for the only covered race was 20,510. Thus, the union's failure to properly credential voting delegates could not have affected the outcome of the election.

You also alleged that some proxy delegates were improperly seated, in violation of Article VI of the Constitution. The Department's investigation found that [REDACTED] was elected as an alternate delegate for Local 1030 and properly credentialed as a proxy delegate for Local 1007. Although [REDACTED] was initially designated as a proxy delegate for Local 83, that local was not properly credentialed, and thus not seated. [REDACTED] did not cast any votes on behalf of Local 83. Thus, there was no violation of the LMRDA.

You next alleged that alternate delegates were improperly upgraded to delegate status, in violation of Article VI and Appendix C of the Constitution. The Department found that two alternate delegates from Local 2341 were improperly issued delegate badges, but they were not actually upgraded to delegate status and did not cast any votes in the election. As such, this did not constitute a violation of the LMRDA.

You further alleged that District 10 staff members improperly served as sergeants-at-arms, in violation of the 2017 District Caucus Election Manual. The Department's investigation found this allegation to be unsubstantiated. The staff members at issue did not serve as sergeants-at-arms. Rather, Ms. Eliano asked them to wear AFGE jackets to greet delegates as they arrived at the hotel. During the caucus, only delegates appointed by Ms. Eliano served as sergeants-at-arms. Therefore, there was no violation of the LMRDA.

You also alleged that the union engaged in disparate candidate treatment in violation of Section 401(c) and failed to follow its constitution and bylaws in the course of the election. You alleged Ms. Eliano and [REDACTED] improperly selected the Election Committee. The Department's investigation found that the election chair and the Election Committee were selected by the caucus delegates pursuant to the 2017 District Caucus Election Manual. Two candidates, [REDACTED] and [REDACTED], were nominated for Election Committee Chair; [REDACTED] declined the position, and therefore [REDACTED] was elected by acclamation. The remaining committee members were nominated and elected by acclamation.

You also alleged that the Election Committee improperly placed a time limit on candidate speeches. The investigation determined that the Election Committee decided

the time limit for candidate speeches, as allowed in the 2017 District Caucus Election Manual. The Department's investigation revealed that the three-minute time limit was subsequently approved by the delegates. Thus, there was no violation of the LMRDA.

You further alleged that the union failed to properly count votes in violation of Section 401(e) of the Act. You first stated that [REDACTED] improperly cast votes on behalf of Local 2921. The Department found that Ms. Eliano and [REDACTED] properly consulted with the AFGE National Secretary Treasurer to resolve this issue. You also alleged that there was a discrepancy in the vote tally, because not all races received the same number of votes. The Department's recount found only a one-vote discrepancy in the vote totals, which likely can be attributed to the fact that delegates did not cast votes for all races. As such, no violation of the LMRDA occurred.

For the reasons set forth above, it is concluded that, with respect to the majority of your allegations, there was no violation of the LMRDA. To the extent any allegation constitutes a violation of the LMRDA, it could not have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

[REDACTED]

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