



May 25, 2018



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor (Department) on February 5, 2018. Your complaint alleged violations 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, 5 U.S.C. § 7120, that occurred during the election of officers conducted by American Federation of Government Employees (AFGE), Local 1263 on August 10, 2017.

The Department of Labor conducted an investigation of your allegation. As a result of the investigation, the Department has concluded that no violation occurred. The Department's conclusion is explained below.

On October 6, 2017, prior to the filing of your complaint with the Department, AFGE National Vice President George McCubbin granted your protest, overturned the August 10 election of officers, and ordered that the election be rerun.

The standard applicable to the Secretary of Labor in deciding whether a new election is required, and that a violation may have affected the outcome of the election, is not applicable to a union's decision to conduct a new election. The LMRDA provides unions with an opportunity to correct election problems and deficiencies before complaints are filed with the Department, thereby preserving a maximum amount of independence and encouraging responsible self-government. Consistent with this legislative objective, the Department 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; the decision is otherwise contrary to the

principles of union democracy embodied in the statute; or the union's decision to hold a new election is otherwise unreasonable.

Here, the Department's investigation substantiated that Local 1263 did not maintain adequate membership records, resulting in 12 ineligible individuals voting even though they were not paying dues. It also resulted in 22 dues-paying members not receiving ballots, none of whom voted. The National Vice President cited these voting irregularities in his decision to re-run the election. Because the largest margin of victory in the election was 26 votes, the total of 34 voting errors may have affected the outcome of the election. This alone would be sufficient demonstration that the National Vice President's decision to overturn the election and order a new election was not based on the application of a rule that violates the LMRDA; made in bad faith, such as to afford losing candidates a second opportunity to win; or otherwise contrary to the principles of union democracy embodied in the statute. Therefore, the National Vice President's decision overturning the election and ordering a new election was not unreasonable.

On these facts, the National Vice President's decision to overturn the election and order a new election was not based on the application of a rule that violates the LMRDA; made in bad faith, such as to afford losing candidates a second opportunity to win; or otherwise contrary to the principles of union democracy embodied in the statute. Therefore, the National Vice President's decision overturning the election and ordering a new election was not unreasonable. The LMRDA was not violated.

In cases in which a properly filed protest is received by the Department after a union has decided to conduct a new election, it is the Department's policy to allow the union to conduct the election without supervision. The Department has received assurances from AFGE that a new election will occur in Local 1263. If you believe that the violations you allege are not remedied by the new election, when held, you may renew your protest.

For the reasons set forth above, it is concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file in this matter. You may obtain a review of this dismissal by filing a request for review with the Director within 15 days of service of this notice of dismissal. A copy of your request must be served on the District Director and the union and a statement of facts must be filed with the Director. The request for review must contain a complete statement of facts and the reasons upon which your request is based. See 29 C.F.R. § 458.59.

Sincerely,



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Chief, Division of Enforcement

cc: J. David Cox, National President
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