



May 25, 2018



Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on February 14, 2018. Your complaint 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, 5 U.S.C. § 7120, that occurred when the National Vice President of the American Federation of Government Employees (AFGE) overturned the election of officers conducted by AFGE Local 1263 on August 10, 2017, and ordered that the election be rerun.

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 that may have affected the outcome of the election. Following is an explanation of this conclusion.

In your complaint to the Department you challenged the bases for the National Vice President's October 6, 2017 decision overturning the election of officers conducted by Local 1263 on August 10, 2017, and ordering a new election.

The standard applicable to the Secretary of Labor 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 with 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

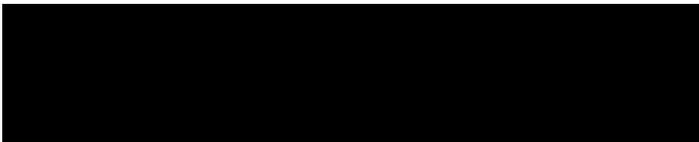
losing candidates a second opportunity to win; the decision is otherwise contrary to the principles of union democracy embodied in the statute; or the union's decision to hold a new election is otherwise unreasonable.

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.

For the reasons set forth above, it is concluded that no violation of the LMRDA that may have affected the outcome of the election 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,



Sharon Hanley
Chief, Division of Enforcement

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

George E. McCubbin, National Vice President
AFGE District 12
3737 Camino Del Rio South, Suite108
San Diego, CA 92108

Beverly I. Dankowitz
Associate Solicitor for Civil Rights and Labor-Management