

CWA



**HOW TO
CONDUCT**

LOCAL UNION ELECTIONS

Education Department

Communications Workers of America

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Introduction

Local union elections are the cornerstone of democratic trade unionism. In CWA, the rank-and-file membership is given an opportunity every three years to select the officers who will provide leadership for their Locals.

Practices and procedures for conducting these Local union elections have been established by federal law and the CWA Constitution. The law and the constitution set minimum requirements. Beyond these, local elections can be conducted according to the bylaws of each local as long as the local rules do not conflict with the federal or constitutional provisions.

Local CWA executive boards and election committees have a legal obligation to see that local elections are conducted in accordance with federal law and regulations. We also have an obligation to our membership to ensure that elections are run democratically and efficiently.

This guide is being offered to ensure that CWA locals conduct elections according to federal law and regulations and in adherence to CWA constitutional and local bylaw requirements.

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Guidance on Union Elections During the COVID-19 Pandemic

Recently, CWA has received many questions about Locals holding elections this fall. As you know, under the CWA Constitution Locals are required to hold elections every three years in the months of September, October, November and December. The LMRDA also requires Local elections to be held every three years. Every effort should be made to conduct Local elections during this time frame.

The Department of Labor (DOL) has issued some guidance on holding Local elections in the midst of this pandemic. The DOL guidance requires Locals to make a "good faith effort to conduct elections required under the LMRDA". While the DOL has

stated that no federal civil enforcement will be taken against a Local that signs a voluntary compliance agreement to hold an election at a later date, due to the pandemic, those voluntary compliance agreements may require DOL supervision. Therefore, to avoid DOL involvement, Locals should make every effort to hold their elections as provided in their Bylaws, by mail if possible.

For more information please contact your Local Staff Representative.

Below is the language and a link to the DOL Guidance.

OFFICE OF LABOR-MANAGEMENT STANDARDS (OLMS)

Website: www.dol.gov/olms/regs/compliance/coronavirus20.htm

Advisory on Union Officer Elections and Public Disclosure Reporting in Areas Affected by COVID-19 and Natural Disasters

Due to COVID-19 (also known as novel coronavirus), as well as Hurricanes Harvey, Irma, Maria, Florence, Michael, Barry and Dorian, Typhoon Yutu, the California wildfires, the Alaska earthquake, and the Nebraska flooding, the Department of Labor's Office of Labor-Management Standards (OLMS) issues this advisory regarding the labor union officer election requirements under Title IV and the reporting requirements of Title II of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). OLMS recognizes that due to the disruption caused by COVID-19, as well as property damage inflicted by the storms and

evacuations from the affected areas, it may be difficult or impossible for some unions to conduct timely union officer elections. Similar difficulties may confront unions, union officers and employees, surety companies, labor relations consultants and employers faced with public disclosure filing requirements. OLMS issues this advisory for those unions, union officers and employees, surety companies, employers, or labor relations consultants whose principal office is located in the affected areas or whose reportable activities occurred in those areas.

ELECTIONS

Website: www.dol.gov/olms/union_info.htm

Affected labor unions must make a good faith effort to conduct elections as required under the LMRDA. The failure to hold an election is an ongoing violation of the LMRDA. OLMS has jurisdiction to file a civil enforcement action concerning a failure to hold a timely election after receipt of a complaint from a union member who has first sought a remedy from his or her union. If OLMS, however, receives a complaint regarding a union's failure to hold an election, and that failure

was attributable to COVID-19, natural disasters, or their aftermath, OLMS will promptly seek a voluntary compliance agreement with the union. The agreement would require the union to hold the election when practicable on a date certain. With such an agreement, OLMS will not seek a civil enforcement action based on the complaint, provided the election is held in conformance with the agreement.

PUBLIC DISCLOSURE REPORTS

Website: www.dol.gov/olms/regs/compliance/formspage.htm

Labor unions, labor union officers and employees, surety companies, labor relations consultants, and employers affected by COVID-19 or natural disasters must make a good faith effort to file required public disclosure reports. The failure to file a timely and complete report is an ongoing violation of the LMRDA. OLMS has jurisdiction to file a civil enforcement action concerning a failure to meet reporting requirements. OLMS will not, however, pursue a civil enforcement action with regard to a delinquent or deficient report when these reporting violations are attributable to COVID-19 and the reporting deadline was prior to June 30, 2020. Any such reports must be filed by June 30, 2020, absent further notice from OLMS. For delinquent or deficient reports attributable to natural disasters, or their aftermath, unions, union officers and employees, surety companies, employers, and labor relations consultants wishing to take advantage of this enforcement policy

should contact OLMS before the report is due, describe the circumstances necessitating additional time, and provide a date certain by which the report can reasonably be submitted. Under these circumstances, OLMS will not lodge a civil enforcement action to obtain the delinquent or deficient report.

This advisory covers unions, employers, or labor relations consultants affected by COVID-19 or whose principal office is located in any area that has been identified as a Designated Area by the Federal Emergency Management Agency (FEMA) to receive individual or public assistance (FEMA categories A and B). To determine whether your county is in a designated area, you may review your state site or FEMA's Disaster Declarations page: www.fema.gov/disasters

Election Committee Responsibilities

1. The CWA Constitution requires that all Locals establish an election committee.

The committee's job is to conduct all elections and referenda and make sure that they comply with:

- Federal Law (see page 3).
- CWA Constitution (see page 5).
- Local Bylaws and Rules.

Candidates for any Local office or for delegate to CWA's convention are not permitted to serve on the election committee.

2. The election committee must identify and check off (on the official membership list) each voter. The committee must verify that the individual voting is a member in good standing and make certain that each member votes only once.

3. Any member may challenge the right of a person to vote. The election committee shall, by vote, decide each challenge.

4. The election committee tallies that ballots in all elections and notifies the membership of its tentative certification of the results. The nominee for any office who receives the majority of the votes cast is declared elected. If no nominee has a majority on first ballot, a new vote is taken with only the names of the two candidates having received the greatest number of votes appearing on the second ballot.

A Local may provide in their bylaws or rules for the election of candidates by a

plurality of votes cast for any office except that of President, (Executive) Vice President, Secretary, Treasurer, or Secretary-Treasurer.

5. The election committee handles and decides all questions concerning the conduct and challenges of elections. Any challenge to the conduct of an election must be filed within ten days of the tentative certification of the results. The election committee must rule on any such challenges and must, within twenty days of the tentative certification of the results, make a final determination or certification. The election committee's decision on these matters is subject to appeal to the governing board and local membership.

6. All ballots, including used, unused and challenged ballots, envelopes used to return marked ballots in a mail ballot election, tally sheets, and related election documents, must be kept for one year by the election official designated in the bylaws or by the local Secretary if no other official is designated. The election records should be sealed.

7. The return addresses for voted ballots and undeliverable ballots must be different (preferably two post office boxes). The undeliverable ballots must be picked up at least once a week during the balloting period and an attempt made to obtain a better address for the voter. Candidates should be notified of the days that the undeliverable ballots are going to be picked up and allowed to have an observer present.

Federal Regulations

Governing Union Elections

The Labor-Management Reporting and Disclosure Act (LMRDA), often referred to as the Landrum-Griffin Act, was enacted into law in 1959. Title IV of the Act sets twelve specific provisions for the election of officers and convention delegates.

1. Every local union must elect its officers not less than once every three years by secret ballot among the members in good standing.
2. Every local union and its officers must comply with all reasonable requests of any candidate to distribute campaign literature at the candidate's expense to all members in good standing of the union and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members. Whenever a union or its officers authorize the distribution of campaign literature on behalf of any candidate, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution.
3. Every bona fide candidate shall have the right, once within thirty days prior to a union election, to inspect a list containing the names and last known addresses of all members of the union who are

subject to a collective bargaining agreement requiring membership therein as a condition of employment. The list shall be maintained and kept at the principal office of such labor organization by a designated official thereof.

4. Adequate safeguards to ensure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.
5. A reasonable opportunity shall be given for the nomination of candidates. Every member in good standing shall be eligible to be a candidate and to hold office and shall have the right to vote for or otherwise support the candidate or candidates of his or her choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by a union or any member thereof.
6. Notice of the election must be mailed to each member at his or her last known home address at least fifteen days prior to the election. If, in a mail ballot election, the ballots themselves serve as notice. The ballots must be mailed at least fifteen days prior to the date when they must be mailed back in order to be counted.

- 7.** Each member in good standing shall be entitled to one vote.
- 8.** No member whose dues have been withheld by his or her employer for payment to a union pursuant to his or her voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or to be a candidate for office in a union because of alleged delay or default in the payment of dues.
- 9.** The votes cast by members of each local labor organization shall be counted, and the results published separately.
- 10.** The ballots and all other records pertaining to the election must be preserved by the election officials designated in the constitution and bylaws or the Secretary, if no other official is designated, for one year.
- 11.** The election shall be conducted in accordance with the constitution and bylaws of the union insofar as they are not inconsistent with the provisions of the law.
- 12.** No monies received by any labor organization by way of dues, assessment, or similar levy, and no monies of any employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such monies of labor organizations may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

CWA Constitutional Requirements

Governing Union Elections

Article XV, Section 3 of the CWA Constitution governs the administration of local elections.

- a.** Local Officers shall be nominated and elected during the months of September, October, November, and December.
- b.** Officers of a Local shall be at least President, Vice President and Secretary Treasurer, or Secretary and Treasurer. Beginning with Local elections in 1987, no member shall be permitted to hold more than one such office.
- c.** Beginning with the elections held in 1972, the term of office for Local Officers shall be three years or until their successors have been duly elected and qualified.
- d.** In case of a vacancy in the office of Local President, the Local Vice President shall immediately assume all responsibilities of that office; provided, however, that where a Local has more than one Vice President, the Local Bylaws or Rules shall provide the procedure for designating one of the Vice Presidents to immediately assume the responsibilities of the Office of President. Vacancies in other Local offices shall be filled either by appointment of the governing body of the Local, subject to approval of the appointment by the Local membership within sixty (60) days or by election in the same manner as that required for regular elections and within sixty (60) days. A Local may provide in its Bylaws or Rules for the appointment of a member to fill temporarily a vacancy until the office is filled by election. A Local may also provide in its Bylaws or Rules for filling a vacancy in the Office of President by election, and in such case, the Local Vice President, as provided above, shall assume all responsibilities of the Office of Local President until a successor Local President has been elected and qualified.

Local Bylaws-Election Provisions

The CWA Constitution requires locals to adopt bylaws or rules to govern nominations and elections. The following suggested bylaws may be used as a guide to review and check your local's current bylaws regarding nominations and elections. Place a check in the box(es) next to the item(s) that need to be changed in your local bylaws.

Suggested Bylaws

Nomination and Election of Local Officers and Members of Governing Board

1. Nominations

Local officers and members of the governing board shall be nominated in the month of _____ each election year.

Note: The Reporting and Disclosure Act of 1959 requires, in connection with nominations, reasonable notice of the office to be filled, and the time, place, and proper form of submitting nominations. Such notice must be given in a manner reasonably calculated to inform all members in good standing and in sufficient time to permit such members to nominate the candidates of their choice. It is recommended that fifteen days be used to meet the time requirements for such notice.

Nominations may be made:

- at a membership meeting,
- by a nominating committee, with the right of members to also nominate from the floor, or
- by petition.

Current Bylaws

Nomination and Election of Local Officers and Members of Governing Board

1. Nominations

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Article XV of the CWA Constitution requires that local nominations be conducted during the months of September, October, November, or December of each election year.

2. Election

Election of local officers and governing board members shall be by secret ballot of the membership in the month of _____ each election year.

Note: The Reporting and Disclosure Act of 1959 requires, in connection with elections, notice of the election be mailed to each member's last known address not less than fifteen days prior to the election. Such notice must specify the time and place of the election and of offices to be filled.

Elections may be conducted by either of the following methods:

- ballot conducted by U.S. mail, or
- balloting by use of established polling places and ballot boxes.

If local elections are conducted by mail ballot referendum, the election notice may be mailed along with the ballot, so long as they are mailed no later than fifteen days prior to the date when they must be mailed back in order to be counted. It is recommended that ballots be mailed at least twenty days prior to the count.

Article XV of the CWA Constitution requires local elections be conducted during the months of September, October, November or December of each election year.

2. Election

3. Local Election Committee

- a. The nomination and election of local officers, members of the governing board, and delegates to the CWA convention shall be conducted under the supervision of the election committee. This committee shall have the authority and responsibility to see that nominations and elections are conducted in accordance with federal and/or provincial law, the CWA Constitution and these bylaws with reasonable opportunity for each member to nominate and vote for the candidate of their choice.
- b. The election committee shall also conduct any referenda submitted to the membership.
- c. A member shall not be permitted to serve on the election committee if he or she is a candidate for any office of the local or delegate to the CWA convention.
- d. All questions concerning the conduct and challenges of elections shall be determined by the election committee, subject to the right of appeal to the governing board and the membership of the local.

4. General Provisions

- a. The nominee in any election receiving the majority of the votes cast shall be declared elected. If no one nominee has a majority on the first ballot, the vote shall be taken again and the two nominees having the greatest number of votes on the first ballot shall be nominees on the second ballot.
- b. Only members of the local in good standing shall be eligible to vote or hold office.
- c. The term of office shall be for three years.
- d. The officers shall take office on_____.

3. Local Election Committee

4. General Provisions

5. Vacancies

A vacancy in the office of local President shall be filled by the local (Executive) Vice President. The Constitution states specifically: In case of vacancy in the office of local President, the local (Executive) Vice President shall immediately assume all responsibilities of that office; provided, however, that where a local has more than one (Executive) Vice President, the local bylaws or rules shall provide the procedure for designating one of the (Executive) Vice Presidents to immediately assume the responsibilities of the office of President. Vacancies in other local offices shall be filled either by appointment of the governing body of the local, subject to approval of the appointment by the local membership within sixty days or by election in the same manner as that required for regular elections and within sixty days. A local may provide in its bylaws or rules for the appointment of a member to fill temporarily a vacancy until the office is filled by election. A local may also provide in its bylaws or rules for filling a vacancy in the office of President by election, and in such case, the local (Executive) Vice President, as provided above, shall assume all responsibilities of the office of local President until a successor local President has been elected and qualified.

6. Election of Local Delegates to the CWA Convention

- a. Delegates and alternate delegates to the Union Convention shall be elected by the membership voting by a secret ballot conducted not less than thirty days in advance of the CWA convention.

Note: The secret ballot may be by mail ballot, by the use of established polling places and ballot boxes, or at a Membership meeting, whichever method may be preferred by the local. The same notice requirements, fifteen days, must be met in conjunction with the nominations and elections of local officers.

5. Vacancies

6. Election of Local Delegates to the CWA Convention

Local Election Rules

Each local shall have Local Election Rules. These rules may be incorporated into the bylaws or established as election rules and as an administrative practice. Local election rules help keep election procedures consistent and legal. A copy of the rules should be given to the election committee and to all candidates. The following are suggested local election rules. Variations in the rules may be necessary to meet the particular needs of a local.

Suggested rules

1. Nominations

Any member of the Local may be nominated for election provided the nominee consents. Nominations may be made by the election committee or any member of the local at the membership meeting called for the purpose of making nominations.

Note: Reasonable opportunity for nominating candidates must be provided to accommodate those scheduled to work during nominating meetings or whose worksite is an unreasonable distance from the nomination meeting.

2. Campaigning

- a. Each candidate will be afforded a reasonable opportunity to have campaign materials distributed by the local to the membership. The expense of such distribution shall be borne by the candidate.
- b. Each candidate will be treated equally with respect to the conditions and expenses of the distribution of campaign literature.

Current rules

1. Nominations

2. Campaigning

- c.** No local or national union funds nor employer funds shall be used to promote the candidacy of any individual. The use of employer or union stationary, facilities, equipment or personnel to promote the candidacy of any campaign is prohibited. Use of plain Local paper, facilities, equipment or personnel in connection with any campaign is prohibited unless the local is compensated. Use of union stationary with the local's name, insignia, or other mark identifying the local is prohibited.
- d.** No member may campaign during work time that is paid for by any local, the national union or any employer. An individual may campaign while on paid vacation or personal leave. Campaigning incidental to regular union business would not be a violation of this section or federal law.

3. Eligibility to Vote

All members of the local in good standing are eligible to vote. The local Secretary shall furnish the election committee with the latest membership list available. Questions on the membership status of an individual whose name does not appear on the membership list should be resolved by the election committee in conjunction with the local Treasurer. Questions concerning the identity of a member may be resolved by presentation of a membership card, drivers license, or similar form of identification.

3. Eligibility to Vote

4. Challenging a Voter

- a.** Any member may challenge the right of a person to vote.
- b.** Some reasons for such challenge are:
 - The person is not a member in good standing
 - The person attempting to vote is not the member on the list, and

4. Challenging a Voter

➤ The member has already voted.

- c. The election committee shall, by vote, decide each challenge.

5. Observers

Each candidate may have observers at each meeting of the election committee and at each polling place on the day of the election and at the location(s) where the ballots are being counted. Such observers must be members of the local. If the election is conducted by mail, observers must be given the opportunity to accompany the election committee to the post office to mail the ballots and to pick up the ballots. Observers may speak at election committee meetings, may challenge a voter or the counting of a ballot, but may not conduct any campaigning while acting as an observer.

6. Notice of Election

A notice of election will be mailed to each member at their last known home address not less than fifteen days prior to the election.

7. Ballots

- a. The ballots shall be printed containing the office and the names of the nominees and a space for write-in candidates for each office unless write-in votes are not permitted under the local bylaws.
- b. Position on the ballot shall be determined by alphabetical order or by a drawing conducted by the election committee.

8. Voting Procedure – Mail Ballots

- a. Each member eligible to vote by mail will be sent:

➤ One notice of election with instructions.

5. Observers

6. Notice of Election

7. Ballots

8. Voting Procedure – Mail Ballots

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[illegible]

- [illegible]

9. Voting Procedure-Polling Place

- ## 9. Voting Procedure-Polling Place

the ballot, folds it, leaves the voting booth, and places the ballot into the ballot box.

- e. A voter who spoils his or her ballot may exchange it for another ballot by surrendering the spoiled ballot to the election committee.
- f. No electioneering is allowed in the voting area.
- g. The polls will be closed promptly at the time stated in the notice for election. Any voter in line at that time will be permitted to vote.
- h. Absentee ballot – A member must make a written request for an absentee ballot to the election committee Chair no later than seven days prior to the election. Absentee ballots may be dispensed by the Chair. Absentee ballots will be received until noon on election day.

Note: While absentee ballots are not necessarily required, they will be required where the local knows in advance that a substantial number, or a particular segment of the members, will not be able to exercise their right to vote in person. In the event absentee ballots are necessary, a local must provide its members with reasonable notice of the availability of such ballots. For example, members could be at work during polling hours.

10. Counting the Ballots

a. Mail ballots:

- Check the upper left-hand corner of the return addressed envelope to see that the name corresponds with the name and address on the eligibility list.
- Open the return addressed envelope and remove the ballot envelope, keeping

10. Counting the Ballots

the return addressed envelope as part of the election record. Keep the return addressed envelope and the ballot envelope separate.

- Open ballot envelopes and stack the ballots for counting purposes in lots of ten, twenty-five, and fifty.

b. Polling place:

- Absentee ballots must be checked against the voting list, using the mail ballot procedure. Absentee ballots received from members who have not voted in person are opened, left folded, and placed in the ballot box.
- Open all ballot boxes and empty the contents onto a table. Stack the ballots for counting purposes in lots of tens, twenty-five, or fifty.

c. General

- Each candidate may have observers present at the counting of the ballots.
- Questions regarding voter intent in marking a ballot, if questioned, will be decided by a vote of the election committee.
- Irregularities in marking the ballot for one office will void the vote for that office only.
- The election committee shall tally the ballots in all elections and notify the membership of its tentative certification of the results. Absent a challenge to the election, the tentative certification shall become final ten days thereafter.
- Any challenge to the conduct of an election must be filed in writing with the election committee within ten days of the tentative certification of the results. (Suggested form on page 37.)

The election committee shall rule on any such challenges and shall within twenty days of the tentative certification of the results make a final determination or certification. (Suggest a form on page 38.)

- Both the tentative certification and the final certification shall be given to the local President and Secretary and the District Office, and shall be posted on all bulletin boards as soon as possible. The results shall also be reported at the next membership meeting.

11. Election Record

The election committee shall turn over to the local Secretary all records, including eligibility list, used and unused ballots, tally sheets, etc. the local Secretary shall keep them for one year from the date of the election. At the end of one year, the Secretary and the Chair of the election committee shall destroy the entire record.

11. Election Record

The Role of Observers

GUIDELINES

1. Each candidate is allowed to have observers at each polling place on the day of the election, at the mailing and at the counting of ballots. A candidate may have as many observers at the counting of the ballots as may be necessary to observe the actual counting and ensure a fair election.
2. In mail ballot elections, candidates must be permitted to have an observer present at the preparation and mailing of the ballots and at the ballot pick-up.
3. Observers must be members of the local.
4. Observers may speak at election committee meetings and may challenge a voter or the counting of a ballot.
5. Observers should be allowed to stand in a place where they can clearly observe the tally process, but should not be allowed to interfere with that process.
6. Observers are not allowed to touch the ballots or the membership list.
7. Observers may not wear buttons or other campaign apparel, distribute campaign material, or engage in conversation with voters about candidates or the election campaign.

Frequently Asked Questions

About Running a Union Election

Yes No

- ☐ ☐ **1.** Must the local notify members when and how nominations will take place?
- ☐ ☐ **2.** Can nominations and elections be held at the same local union meeting?
- ☐ ☐ **3.** May a local's bylaws specify that self-nomination is the only method for being nominated for office?
- ☐ ☐ **4.** Must a local distribute campaign literature for a person who wishes to be nominated to run for office?
- ☐ ☐ **5.** May a candidate use the Local's stationery, facilities or personnel to aid in his or her campaign?
- ☐ ☐ **6.** May a local union sponsor a debate at a union meeting among all the candidates for a union office?
- ☐ ☐ **7.** May the insertion of a notice of the election in a union newspaper mailed to the last known address of each member at least fifteen days before the election be considered to satisfy the notice required by the act?
- ☐ ☐ **8.** May a ballot be used as the notice of election?
- ☐ ☐ **9.** Does hand delivery of the notice of the election or posting the notice on bulletin boards constitute compliance with the Act's election notification provisions?

Yes No

- ☐ ☐ **10.** Must a local provide for absentee ballots?
- ☐ ☐ **11.** May a local impose meeting attendance requirements as a candidate qualification?
- ☐ ☐ **12.** Is it possible for a member who is retired for any reason to vote or run for office?
- ☐ ☐ **13.** Must the local allow each candidate to have an observer?
- ☐ ☐ **14.** Where there is more than one polling place and the polls are open all day long may more than one observer be used?
- ☐ ☐ **15.** May a local refuse to accept write-in votes?
- ☐ ☐ **16.** May the election of officers or delegates be held by a show of hands?
- ☐ ☐ **17.** May the ballots be destroyed or mutilated after they have been counted?
- ☐ ☐ **18.** Must a local hold an election where only one person has been nominated for office?
- ☐ ☐ **19.** What happens if a mail ballot is returned non-deliverable by the USPS?

Answers to Frequently Asked Questions

1. *Must the local notify members when and how nominations will take place?*

Yes. The law requires that all members in good standing be given a “reasonable opportunity” to nominate candidates of their own choice. The suggested “Local Election Rules” establishes a fifteen day period.

2. *Can nominations and elections be held at the same local union meeting?*

Yes, if the union affords all candidates the campaign safeguards such as sufficient time and opportunity to inspect membership lists in certain instances and to distribute campaign literature. A member may be a candidate for office even if he or she has not been nominated. Other applicable safeguards contained in federal law must be provided, including the mailing of a combined nomination and election notice at least fifteen days in advance, and the use of a secret ballot.

3. *May a local’s bylaws specify that self-nomination is the only method for being nominated for office?*

No. A system of self-nomination, if it is the only method for making nominations, is invalid because it denies members a reasonable opportunity to nominate.

4. *Must a local distribute campaign literature for a person who wishes to be nominated to run for office?*

Yes. The act uses the terms “candidate” and “bona fide candidate” rather than the term “nominee” in

describing the person entitled to this right. Most courts have held that a person may be candidate for office before he or she has actually been nominated to run for that office.

5. *May a candidate use local stationery, facilities or personnel to aid in his or her campaign?*

No. The law prohibits the use of union funds, facilities, materials or secretarial time to promote any candidate’s campaign. However, the law does require a labor organization to comply with all reasonable requests of any candidate to distribute his or her campaign literature to the membership at his or her expense.

All candidates must be treated equally. It is advisable, therefore, that a local (through its election committee) inform all candidates in advance of the conditions under which distribution will be made and promptly advise them of any change in conditions.

6. *May a local union sponsor a debate at a union meeting among all candidates for a union office?*

As long as no candidate is shown preference over another by the union, there is no prohibition against using dues, assessments, or similar levies to pay the normal costs of a meeting at which all candidates for an office are permitted to express their views to the membership.

- 7. *May the insertion of a notice of the election in a union newspaper mailed to the last known address of each member at least fifteen days before the election be considered to satisfy the notice required by the act?***

Yes, if the announcement is properly displayed so as to attract the attention of the members.

- 8. *May a ballot be used as the notice of election?***

Yes, if the ballot is mailed to the voter at least fifteen days before the time the ballot must be mailed in order to be counted, and the instructions for marking and returning the ballot are clear and complete. It is recommended that the ballots be mailed at least twenty days prior to the count.

- 9. *Does hand delivery of the notice of the election or posting the notice on bulletin boards constitute compliance with the notification provision of the act?***

No. The act specifies that notice of the election must be mailed to the last known home address of all members not less than fifteen days before the election. No other method of notification can be substituted for this requirement although additional means of notification may be used.

- 10. *Must a local provide for absentee ballots?***

The CWA Constitution does not require absentee ballots, but the act provides that each member is entitled to one vote. Under certain conditions, voting in person may place an unusual burden on a significant number of members. There may be a considerable distance between the worksite and the polling place, for example, or the nature of the members' occupations, their hours of work, or the like, may make it difficult for them to reach the polling place. If this is the case and additional polling places are not provided, absentee balloting is necessary to ensure compliance with the act's requirement that each member in good standing be entitled to one vote.

- 11. *May a local impose meeting attendance requirements as a candidate qualification?***

A requirement that an individual must have attended a certain percentage of meetings in order to be eligible to run for office would be reasonable only if it does not exclude a large number of members and has excuse provisions for members who cannot attend because of work schedules, other union activities, or illness. While the law permits reasonable restrictions for candidacy uniformly applied, it should be remembered that unless a restriction meets this test, an election will be set aside if challenged.

- 12. *Is it possible for a member who is retired for any reason to vote or run for office?***

Yes, if he or she continues to be an active member after retirement and remains an active member in good standing by payment of dues.

- 13. *Must the local allow each candidate to have an observer?***

Yes, each candidate may have an observer present at either the polling place or the mail out location in the case of mail ballot elections. Candidates may also have observers at the location(s) selected for counting the ballots.

- 14. *Where there is more than one polling place and the polls are open all day long, may more than one observer be used?***

Yes. A candidate may have an observer present at each polling place and at each location or table where ballots are counted. There is no objection to having one observer relieve another if the polling hours are long.

- 15. *May a local refuse to accept write-in votes?***

Yes, if the refusal is based on prohibition in the local's bylaws or the election rules, or a long standing established practice of the local. However, the act's requirement that votes must be counted and

the results published implies that the counting and reporting should account for all ballots cast in the election.

16. *May the election of officers or delegates be held by a show of hands?*

No. the balloting procedure must be secret. If there is any way that a voter's choice of candidates may be identified the election will be declared invalid.

17. *May the ballots be destroyed or mutilated after they have been counted?*

No. The local Secretary must keep the records for one year following the election.

18. *Must a local hold an election where only one person has been nominated for office?*

Yes. The local must hold an election even where only one person has been nominated unless the local's bylaws, or election rules prohibit write-in votes.

19. *What happens if a mail ballot is returned non-deliverable by the USPS?*

The local should try to get a better address and remail the ballot. This is why the local should have two post office boxes—one for the marked return ballot and one for the undeliverable ballots.

Nominations

Nominating practices vary from local to local. Some simply accept nominations from the floor at the membership meeting. Others choose a nominating committee to select candidates for each office, with other members having the right to nominate additional candidates from the floor. Below are some important federal and constitutional requirements involving nominations.

- 1.** The CWA Constitution requires that all locals adopt bylaws or rules to govern nomination and election of officers, delegates and alternate delegates; the appointment, selection or election of stewards and committee members; and the filling of vacancies.
- 2.** Federal law requires that members receive “reasonable notice” of the nominating process. Fifteen days is considered a “reasonable notice” and sufficient time to permit members to consider the matter and submit names if they desire to do so.
- 3.** Nominations for local officers must be held in the months of September, October, November, or December. This is a requirement of the CWA Constitution.

Common Pitfalls in Conducting Local Elections

CWA staff have identified the following as the most common problems that come up during local elections.

Notification of Nominations Not Handled Properly

Reasonable opportunity for nominating candidates must be provided to accommodate those scheduled to work during nominating meetings or whose worksite is an unreasonable distance from the nominating meeting. Notice of nomination shall be given at least fifteen days prior to the nomination meeting. The CWA Constitution requires local nominations be conducted during the months of September, October, November, or December (See page 42 for more information).

No Post Office Box for Mail Ballots

Do not have the ballots mailed to the local office or to an officer's home or the election committee Chair's home. Rent a post office box for the election. Leave the ballots in the post office box until election day.

A Local Officer Picks up Ballots

At least two election committee members should go to the post office box to pick up the ballots. Observers must be given the opportunity to accompany the election committee to the post office to

pick up the ballots. A local officer should not pick up the ballots.

Election Committee Does Not Have a Membership List

The Secretary-Treasurer is responsible for providing the election committee with an official membership list. This list must be used to confirm that the individual voting is a member in good standing and to guarantee that each member receives one vote. Every effort should be made to update the list prior to the election.

Polling Place(s), Date(s), Hour(s) and Location(s) Do Not Provide Access to All Members

The date(s), hour(s) and location(s) of elections conducted at the polling place(s) must be established in order to provide all members in good standing a reasonable opportunity to vote. When setting the location(s) and hours for the polling place(s) you must consider the shifts members work and how far they must travel to vote. If substantial numbers of members will be unable to vote because of the locations and hours of the polling places, you should arrange for absentee ballots.

Observer(s) Denied Rights

Each candidate is allowed to have observer(s).
(See pages 18 and 50 for more information.)

Notification of Election Not Handled Properly

A notice of election must be mailed to each member at his or her last known home address not less than fifteen days prior to the election. (See page 49 for more information.)

Election Committee Is Not Given Full Autonomy In Election

The election committee is responsible for conducting the election and collecting and counting the ballots. All challenges and complaints must be directed to the committee.

Local Takes A Shortcut

Do not take short cuts. Follow the requirements of the federal or provincial law, CWA Constitution and local bylaws.

Counting Ballots

All ballots cast by eligible voters, except blanks, must be counted.

Blank Ballots

Blank ballots are simply ignored; they are neither counted for any purpose nor are they reported. Ballots for obvious non-candidates (i.e. Mickey Mouse, Donald Duck) are treated as blank ballots because these types of votes are viewed as expressing a desire not to vote and therefore equal blanks.

Illegal Ballots and Void Votes

Ballots cast by individuals not entitled to vote are recorded as void and are not counted for any purpose. If a member leaves one or more choices blank on the ballot containing more than one office to be filled, the blank spaces in no way affect the validity of the spaces he or she has marked correctly. For purposes of the offices not marked, the ballot is treated as a blank and not counted for any purpose. If the member votes for too many candidates for a given office, that particular section of the ballot is illegal (or void) because it is not possible to determine for whom the member desired to vote. It is therefore not counted for any candidate.

However, such a ballot is counted for purposes of computing the number of votes needed to win.

Small errors, like the misspelling of a word or a name, do not make a vote illegal (or void) if the meaning of the ballot is clear.

Unintelligible ballots are treated as illegal (or void) votes. They are counted for purposes of computing the number of votes needed to win, but are not counted for any candidate.

All voided ballots should be marked “void” on the front and a brief explanation of why the ballot was voided on the back of the ballot. The voided ballots should be placed in a separate envelope.

Spoiled Ballots

A spoiled ballot is one where the voter marked it wrong and turns it in and asks for another ballot. Spoiled ballots are reported as spoiled ballots and are not counted for any purpose.

Challenged Ballots

The election committee shall, by vote, decide each challenge. Challenged ballots need not be resolved or counted for any purpose unless they may affect the outcome of the election, either because they might change the number needed to win or because they might make a difference in determining the top vote getter. If challenged ballots must be resolved they are recorded as both challenged and as whatever the resolution is.

Election Day Supplies and Procedures

(Mail or Manual Election)

The local election procedures that follow cover elections conducted at polling places, meeting halls and mail ballot elections. Each local should determine which method it desires to follow. The local should establish uniform election rules for use in local elections. (See page 11 for more information on local election rules.)

take place at the post office and that the election committee members secure a receipt for the number of pieces mailed.

- Rules/regulations/resource. Copies of your local bylaws and election rules,

CWA Constitution, information distributed by the Department of Labor (www.dol.gov) on conducting union elections and this manual.

Mail Ballot Election

Preparation and Supplies

- Membership list.
- A set of address labels corresponding to the membership list.
- Notice of election.
- Ballots (no candidate for office can have control or access).
- Postage-paid mailing envelopes.
- Ballot envelopes.
- Return address envelopes to a post office box.
- Post Office box. (Arrangements should be made with the post office to release mail in this box to no less than two members of the election committee.)
- At least two election committee members should mail the ballots. It is recommended that the actual mailing

Election Day Procedure

Election committee members (at least two) should collect the ballots from the post office on the scheduled day in the presence of the candidates or their observers. The ballots should be taken directly to the designated place and counted promptly.

Manual Ballot Election

Preparation and Supplies

- Membership list.
(See page 12 – Eligibility to Vote)
- Ballots. (See page 13 – Ballots)
- Voting booths. Voting booths should be provided to maintain the secrecy of the ballot. Your village, city or county clerk might be willing to lend you those used at election time or at least tell you where

to get some. If you have to improvise, you could use tables with large cardboard cartons on top, or curtains hung from the walls separating the tables. Whatever you do, remember you must maintain the secrecy of the ballot. Each booth should be equipped with a pencil and ball point pen, preferably on a string. Make sure that there is adequate light in each booth.

- **Ballot boxes.** A cardboard box large enough to accommodate the maximum number of ballots possible makes a fine ballot box. The ballot box should be left open for inspection by all members of the election committee and by any other interested parties until fifteen minutes before the voting is to begin. Then the ballot box should be sealed with tape, leaving one opening on top for ballots. The members of the election committee should affix their signatures to the tape on various sides of the box. In the event the ballot box is removed from the voting area, the ballot slot should be sealed by sealing tape (transparent tape is unacceptable), and the election committee members should sign that seal. The sealed box is unsealed only after inspection of the seal shows that it was in fact the seal placed by the election committee.
- **Tables and chairs.**
- **Miscellaneous supplies.** Pencils and/or pens, paper, identification badges for committee, transparent tape, masking tape, rubber bands, large envelopes, and a large carton.
- **Rules/regulations/resource.** Copies of your Local Bylaws and Election Rules, CWA Constitution, and this manual.

Election Day procedure

- **Voting area arrangement.** Set up the voting area so that a flow of voters can be established. Preferably, the room should have two doors, one for entry, the other for exit. The voter starts at a table where the election committee checks that person on the membership list, then gives them a ballot. The voter proceeds to the voting booth, marks the ballot, folds it, leaves the voting booth, moves on to the ballot box, places the ballot into the box and continues on out the exit. Observers should be placed where they can observe voter registration and the ballot process but not obstruct it in any way.

SUGGESTED FORMS FOR LOCAL ELECTIONS

Suggested Forms for Local Elections

NOTICE OF NOMINATION FORM

Nominations for the office of President, (Executive) Vice President, Secretary-Treasurer and Executive Board Members of Local _____ shall be conducted at the membership meeting of CWA Local _____ on:

Date: _____ Time: _____

Place of Meeting:

The election committee will open nominations from the floor. Any member in good standing may nominate, provided the nominee is a member in good standing and agrees to be a nominee.

(Optional – Include only if bylaws provide for this.) The nominations of a person for the office of President (and other offices) shall also constitute the nominations of the same person as a delegate to CWA conventions held during the term of office for which the election is being conducted.

Chair, Election Committee

Secretary, Election Committee

Mail Ballot Election Form

NOTICE OF ELECTION

The election of President, (Executive) Vice President, Secretary, Treasurer and Executive Board Members of Local _____ will be conducted and the ballots counted on:

Date: _____ Time: _____

Place of Meeting: _____

(Optional – Include only if the bylaws provide for this.) A vote cast for the candidate for the office of President (and other offices) shall also constitute a vote for such candidate to serve as a delegate to CWA conventions held during the term of office for which the election is being conducted, in the event such candidate is elected President (and other offices).

Enclosed please find:

- One ballot.
- One ballot envelope.
- One return addressed, postage-paid mailing envelope.
- Voting Instructions:
- Mark your vote where indicated on the ballot.
- Fold and place the ballot in the ballot envelope and seal it. Do not mark this envelope in any way.
- Place the sealed ballot envelope in the postage paid return addressed envelope, seal it, and affix YOUR NAME and address on the upper left-hand corner of the return addressed envelope.

Your ballot cannot be counted unless this is done. Your name on the return addressed envelope will identify you as an eligible voter. It will not reveal how you voted, because the ballot is removed and separated from this envelope before it is opened. Secrecy can be preserved only if you mark and mail your ballot personally. Do not allow someone else to mark and mail your ballot personally. Do not allow someone else to mark and handle your ballot or see your vote. Mail your ballot so that it will be returned to the post office box no later than _____.

Chair, Election Committee

Secretary, Election Committee

Polling Place Election Form

NOTICE OF ELECTION

The election of President, (Executive) Vice President, Secretary, Treasurer and Executive Board Members of Local_____ will be conducted and the ballots counted on:

Date:_____ Time:_____

Place of Meeting:_____

The polls will be open from 9:00 a.m. to 9:00 p.m. and the ballots counted immediately thereafter.

(Optional – Include only if the bylaws provide for this.) A vote cast for the candidate for the office of President (and other offices) shall also constitute a vote for such candidate to serve as a delegate to CWA conventions during the term of office for which the election is being conducted, in the event such candidate is elected President (or other office).

Chair, Election Committee

Secretary, Election Committee

Ballot Form

Ballots (printed or copied) must be provided for all elections and referenda designated “Secret Ballot” by the bylaws, including the election in which there is only one nominee for an office. A blank line may be provided for possible write-in candidates. If the local bylaws or election rules prohibit write-ins, no election or blank line is necessary.

CWA Local _____ Office Ballot

Place an “X” in the box preceding the name of the candidate of your choice for each office.

(Vote for one) President and Convention Delegate

- ☐ Candidate's name
- ☐ Candidate's name
- ☐ _____

(Vote for one) (Executive) Vice President

- ☐ Candidate's name
- ☐ Candidate's name
- ☐ _____

(Vote for one) Secretary-Treasurer

- ☐ Candidate's name
- ☐ Candidate's name
- ☐ _____

(Vote for one) Executive Board Member

- ☐ Candidate's name
- ☐ Candidate's name
- ☐ _____

Tally Sheet Form

CWA Local_____ Tally Sheet_____

Sheet_____ of_____

Tally votes for each office on an individual tally sheet in five vote units for **||||** each candidate.

Tally for the office of _____

5 10 15 20 25 30 35 40 45 50

Void Ballots										
Spoiled Ballots										
Challenged Ballots										
(Candidate's Name)										
(Candidate's Name)										
(Candidate's Name)										
(Candidate's Name)										

The above tally was completed by the undersigned.

_____Signature _____Date

Tentative Certificate of Results Form

CWA Local _____ Tentative Certificate of Results

The undersigned members of the local election committee certify that the results of the tabulation of ballots cast in the election concluded on _____ were as follows:

- a. Number of eligible voters _____
- b. Total number of ballots printed _____
- c. Number of votes ballots _____
- d. Number of void ballots _____
- e. Number of spoiled ballots _____
- f. Number of challenged ballots _____
- g. Number of unused ballots _____

OFFICE OR TITLE	CANDIDATE'S NAME	VOTE

The undersigned actually served on the election committee and counted the ballots.

This is the election committee's Tentative Certification of Results.

Unless challenged, this certification will become final in ten days.

copy to: Local President, Local Secretary, District Office and one posted on each bulletin board

Final Certificate of Results Form

CWA Local_____ Final Certificate of Results

The undersigned members of the local election committee certify that the results of the tabulation of ballots cast in the election concluded on_____ were as follows:

- a.** Number of eligible voters_____
- b.** Total number of ballots printed_____
- c.** Number of votes ballots_____
- d.** Number of void ballots_____
- e.** Number of spoiled ballots_____
- f.** Number of challenged ballots_____
- g.** Number of unused ballots_____

OFFICE OR TITLE	CANDIDATE'S NAME	VOTE

The undersigned actually served on the election committee and counted the ballots.

This is a Final Certification of Results

Copy to: Local President, Local Secretary, District Office and one posted on each bulletin board

REFERENCE MATERIAL

Federal Guidelines for Electing Union Officers

UNION COVERED BY THE ELECTION PROVISIONS OF THE ACT

Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA or the act) established election procedures that must be followed by all unions covered by the act, regardless of whether their constitutions and bylaws so provide. The act does not spell out detailed procedures; rather, it sets minimum requirements. Beyond this, elections are to be conducted according to the constitutions and bylaws of each union, as long as the union's rules do not conflict with the provisions of the act. The Labor-Management Reporting and Disclosure Act applies primarily to unions that represent employees in private industry. (See note page 4.)

WHO MUST BE ELECTED AND HOW OFTEN

Offices to be Filled and How Often

The act requires that all officers be elected. The act defines the term "officer" as "any constitutional officer, any person authorized to perform the functions of President, Vice President, Secretary, Treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body." A constitutional

officer is any person holding a position identified as an officer by the constitution and bylaws of the union. All constitutional officers must be elected, even if they do not perform any executive functions. The major union offices (the President, Vice President, Secretary, Treasurer, and members of executive boards or similar governing bodies) must be filled by election.

In addition, any person who has executive or policy making authority or responsibility must be elected even though he or she may not occupy a position identified as an officer position under the union's constitution and bylaws.

In addition, any delegate who votes for officers of a national or international union must be elected by secret ballot among the members in good standing of the union he or she represents. Officers of a local union must be elected directly by secret ballot among the members in good standing.

Frequency of Elections

The maximum period allowable between regular elections of officers is stated explicitly in the act. Elections must be held as often as required by the union's constitution and bylaws, but at least every three years in local unions. These periods are measured from the date of the last election. These requirements do not prohibit incumbent officers from being reelected at the end of their terms of office.

Unexpired Terms of Office

Frequently during the term of office, a union official will resign or a vacancy will occur for some other reason, such as the death of the incumbent. The act is silent on the specific point of what should be done in filling the unexpired term of office. A union may therefore fill such a vacancy by using the procedure provided in its constitution and bylaws.

Summary

- All officers of local unions must be elected by secret ballot among the members in good standing.
- All members of executive boards or similar governing bodies of local unions must be elected by secret ballot among the members in good standing.
- All delegates to conventions of national or international unions or to intermediate bodies must be elected by secret ballot among the members in good standing if the delegates are to vote in the election of officers of the national or international unions or intermediate bodies.
- All officers of national or international unions and of intermediate bodies must be elected either directly by secret ballot among the members of indirectly through representatives elected by secret ballot.
- Professional and other staff members who do not determine policy and who are subject to the control of elected officials need not be elected.
- Officers must be elected at least every three years in local unions.

NOMINATION PROCEDURE

Basic Provisions

The act requires that all members in good standing be given a “reasonable opportunity” to nominate candidates of their own choice. It also requires that the procedures followed in making nominations be in accordance with the union’s constitution and bylaws, insofar as these are not inconsistent with the requirement for “reasonable opportunity.”

Reasonable Notice for Nominations

A union must give a reasonable notice of:

- The offices to be filled by election;
- The date and time for submitting nominations;
- The place for submitting nominations; and
- The proper form for submitting nominations, that is, whether written, orally from the floor, or by some other method.

Reasonable notice must be given so that all members in good standing have enough time to nominate candidates of their choice for office.

How to Notify

Methods for reasonable notification include:

- Mail notice to each member in good standing within a reasonable time before nominations are held. The act does not prohibit the use of a single notice of both nominations and election

if it gives members reasonable time to nominate candidates and also meets the requirement for election notices.

- Timely publication in union newspaper which (1) is reasonably calculated to reach all members in good standing and (2) actually provides reasonable opportunity for nominations to be made.
- Other means in accordance with the constitution and bylaws of the union which (1) are reasonably calculated to reach all members in good standing and (2) actually provide reasonable opportunity for nominations to be made.

Who May Be Nominated?

Every member in good standing is eligible to be a candidate and to hold offices subject to reasonable qualifications in the union's constitution and bylaws that are uniformly imposed. The factors that must be considered in determining whether a qualification is reasonable include the following:

- Its relation to the legitimate needs and interests of the union;
- Its relations to the demands of the union office to which it is applied;
- The number of members who are disqualified by its application;
- A comparison of the qualification with the requirements for holding office
- generally prescribed by other unions; and
- The degree of difficulty union members have in meeting the qualification.

For example, it would ordinarily be reasonable for a union to require a candidate to have been a member for a minimum period of time before the election, not to exceed two years in the case of a local.

It may also be reasonable for a union to require that candidates attend a specified number of regular meetings during a period immediately preceding an election.

In addition, prescribing eligibility for nomination based on geographic, craft, shift, or similar lines is normally considered reasonable for a position representing such a membership unit.

Qualifications for office that seem reasonable on their face may not be proper if they are applied in an unreasonable or non-uniform manner. One essential element of reasonableness is that members receive adequate advance notice of the requirement. Another example is that an attendance requirement would only be reasonable if it does not exclude a large number of members and has excuse provisions for members who cannot attend because of work schedules, other union activities, or illness. A qualification that is not part of the union's constitution and bylaws or other properly enacted rules may not be the basis for denial of the right to run for office unless it is required by federal or state law. When a union adopts a new qualification requiring positive action by members (such as meeting-attendance requirement), the union may not apply the requirement until members have had an adequate opportunity to satisfy it.

It is a violation of the act to disqualify a member in good standing from being a candidate for alleged delay or default in the payment of dues if his dues are checked off by his employer according to his voluntary authorization as provided for in a collective bargaining agreement. However, if during the time allowed for the payment of dues in order to remain in good standing, a member on a dues check-off system has no earnings from which dues can be withheld, he or she may be held responsible for paying dues in order to remain in good standing.

Unreasonable requirements include:

- Payment of a filing fee;
- A declaration of candidacy several months prior to nominations;
- Prior office holding; and
- Qualifications that limit candidacy to persons of any particular race, color,

religion, sex or national origin and are therefore inconsistent with the Civil Rights Act of 1964.

Who is Ineligible?

Though in general every union member in good standing who meets the union's reasonable and uniform requirements may be a candidate for office, the law specifically bars certain persons from holding office. Persons convicted of "robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, a violation of Title II or III" of the act, and those convicted of abuse or misuse of their position or employment in a labor organization or employee benefit plan, are not eligible to hold office for thirteen years after conviction if there has been no imprisonment, or for thirteen years after the end of the period of imprisonment.

A union's constitution and bylaws may contain reasonable rules for deferring the eligibility of a certain class or classes of members to run for or be elected to office. For example, such rules may apply for a reasonable period of time to apprentices or to new members. If a member is involuntarily compelled to transfer from one local to another, however, a rule requiring a period of prior membership in the new local would not be reasonable if the member is not given credit for their prior period of membership. A union may not limit eligibility for office to a particular branch of segment of the union when the restriction has

the effect of depriving members who are not in the branch or segment of the right to become officers of the union.

In certain unions, it is customary for members to retain their membership in good standing when they become supervisors. These members may not hold office, however, if their doing so would violate the Labor Management Relations Act, 1947, as amended (Taft-Hartley Act), which makes it an unfair labor practice for any employer (including persons acting in that capacity) to dominate or interfere with the administration of a union.

Summary

- A union must provide reasonable opportunity for nominating candidates.
- A union must provide reasonable notice of the offices to be filled and the date, time, place and proper form for submitting nomination.
- Notice may be by mail, timely publication in the union newspaper, or other effective means.
- All members in good standing may be candidates and hold office.
- In general, persons convicted of crimes may not hold office for thirteen years after the period of imprisonment or thirteen years after conviction if there was not imprisonment.

CAMPAIGN RULES

Basic Provisions

The act sets forth certain basic standards for union election campaigns. A union may also enforce other rules if they do not conflict with those prescribed in the act.

The act forbids the use of union resources to support a favored candidate for office over any other candidates, and it specifically prohibits the union and its officers from discriminating among candidates with respect to certain procedures and use of facilities.

Distribution of Literature

A union must honor all reasonable requests by a candidate to distribute campaign literature at his or her expense to all members in good standing, whether the distribution is by mail or some other means. The union may not censor the contents of campaign literature it is requested to distribute. It must treat all candidates fairly. If its distribution of campaign literature for one candidate is without charge, then its distribution for all candidates must be without charge. Treating all candidates the same by refusing to honor any and all reasonable requests for distribution of campaign literature at the candidate's expense is not permitted, however. To avoid charges of unequal treatment among candidates, the union should inform all candidates in advance of the conditions under which it will distribute literature and should promptly advise them or any change in those conditions.

Inspection of Membership Lists

Each bona fide candidate has the right to inspect a list containing the names and last known addresses of all members of the union who are

subject to a collective bargaining agreement that requires membership in the union as a condition of employment, such as union-shop or a maintenance-of-membership agreement.

This right to inspect does not include the right to copy and is limited to once within thirty days before the election. In the case of a mail ballot election, the right to inspect must be granted within the thirty day period before the ballots are mailed to members.

The union is required to refrain from discriminating in favor of, or against, any candidate with respect to the use of lists of union members. A candidate may be allowed to copy lists of union members if the union permits it. If one candidate is allowed to make a copy, however, then all candidates must be allowed to copy the lists if they so desire.

The requirements that a union must comply with reasonable requests for distribution of campaign literature and refrain from discrimination among candidates with respect to the use of membership lists may be enforced before the completion of an election by private legal action by any bona fide candidate in a union that is subject to the LMRDA.

Use of Union and Employer Funds

A union may not use funds received from dues, assessments, or similar levies to

promote the candidacy of a particular individual in a union election.

These funds may, however, be used for:

- Notices;
- Factual statements of issues not involving candidates; and
- Other expenses necessary for holding an election.

Employers may not contribute funds, directly, or indirectly, in support of the candidacy of any person for union office under any conditions. This prohibition includes any costs incurred by a union or an employer and anything of value contributed by a union or employer.

Summary

- A union must honor all reasonable requests to distribute campaign literature at a candidate's expense.
- A union may not use any funds received from dues, assessments, or similar levies to promote any person's candidacy. No employer may contribute cash or anything of value to the campaign of any candidate.
- If there is a collective bargaining agreement requiring union membership as a condition of employment, such as a union shop or maintenance-of-membership agreement, a candidate has the right, once within thirty days before the election, to inspect a list of members subject to the agreement, but not to copy it.

Privilege extended to one candidate must be extended to all. For example, if literature is distributed at a reduced rate on behalf of one candidate, then all candidates must be granted equal service by the union on the same terms, and if any candidate is allowed to copy membership lists, all candidates must be given the opportunity to do so.

ELECTION PROCEDURES

Basic Procedures

The act requires that a local union elect its officers by secret ballot among the members in good standing, subject to reasonable rules uniformly imposed. A national or international union may elect its officers either by secret ballot among the members in good standing (referendum) or at a convention of delegates chosen by secret ballot among the members in good standing. An intermediate body may elect its officers either by secret ballot among the members in good standing or by union officers or delegates elected by secret ballot vote of the members they represent.

Although the act requires that a secret ballot be held among the members in good standing, it does not prescribe in specific detail the election procedures that must be followed. The election must satisfy the "ground rules" specified in the act and, in addition, it must be in accordance with the constitution and bylaws of the union concerned. Reasonably in advance of the election, a union must notify its members of any constitutional amendment relating to the election.

What is a Member in Good Standing?

According to the act, a member in good standing of a union is "any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization."

Not all members in good standing may be eligible to vote, however. A union may prescribe reasonable rules and regulations for voting eligibility. For example, a reasonable period of prior membership, such as six months or one year, may be

required, or apprentices may be required to complete their apprenticeships. Temporary deferment of the right to vote may thus be reasonable in some cases, but the creation of permanent or quasi-permanent classes of non-voting members would normally violate the act. Furthermore, a member in good standing whose dues have been checked off under a collective bargaining agreement according to his or her voluntary authorization may not be disqualified from voting (or being a candidate) because of alleged delay or default in the payment of dues. If, however, during the time allowed for the payment of dues in order to remain in good standing, a member on a dues check-off system has no earnings from which dues can be withheld, they may be held responsible for paying their dues in order to remain in good standing.

What Is a Secret Ballot?

The act defines a secret ballot as “the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote...cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.” To secure a secrecy at the polls, a union should provide such facilities as curtains, screens, partitions, separate rooms, booths, or separate voting areas. In addition to providing facilities for a secret ballot, the union is responsible for insuring that voters do actually cast their votes in secret.

If the election is to be in the form of a mail referendum, the union must take appropriate steps, such as the use of double envelopes, to ensure that the identity of the individual members will not be disclosed as their marked ballots are submitted and counted.

Notice of Election

A union must mail notice of election to each member at his or her last known address not less than fifteen days before the election. The election notice may be with the nomination notice, as long as the union allows reasonable time for nominations. In an election involving balloting by mail, the union must mail the notice of election at least fifteen days before the date by which ballots must be mailed back in order to be counted. Although the act does not prescribe the physical form of the election notice, it must specify the date, time, and place of the election and the offices to be filled and must be in a form reasonably calculated to inform the members of the impending election. If the election is a regular, periodic election of all officers and the notice so indicates, further specification of the offices to be filled is not necessary.

Publication of the notice in a union newspaper is considered adequate notice if the newspaper is mailed to the last known address of each union member and if the union can reasonably expect this form of publication to bring the notice to the members' attention. A conspicuous front page notice would normally satisfy this requirement. On the other hand, a notice published among, and indistinguishable at a glance from, classified advertisements would normally not be considered reasonably calculated to inform all members. At the very least, the front page of the publication should contain a conspicuous item alerting the member to the notice contained elsewhere in the paper.

Uncontested Elections

An election of officers or delegates in which the act would normally require the use of a secret ballot need not be held by secret ballot when all candidates are unopposed and the following conditions are met:

- The union provides a reasonable opportunity for nominations;
- Write in votes are not permitted, as evidenced by a provision in the constitution and bylaws, a properly adopted resolution, or established union practice; and
- The union complies with all other provisions of the Title IV.

Counting and Keeping the Ballots

In every election held under Title IV of the act, votes cast by members of each local union must be counted and the results published separately. For example, where officers of a national union or intermediate body are elected directly by members, the votes of each local must be tabulated and published separately to ensure that the results of the voting in each local are made known to all interested members. The publication need not show, however, the distribution of votes by sections within the local.

In a local election, the presentation of the election report at a regular local membership meeting, and the entry of the report in the minutes, would normally satisfy the publication requirements if the minutes were available for inspection by members or if copies of the report were made available. In an election involving more than one local, results may be published by notice on appropriate bulletin boards or in a union newspaper, or by any procedure that allows members to obtain information without unusual effort. In addi-

tion, all ballots, including used, unused, and challenged ballots, envelopes used to return marked ballots in a mail ballot election, tally sheets, and related election documents, must be kept for one year by the election officials designated in the constitution and bylaws of the union conducting the election or by the Secretary of the union, if no other official is designated.

Right of Candidate to Have Observer

In every election required under the act, each candidate must be permitted to have observers:

- At each polling place; and
- At the counting of the ballots.

Furthermore, a candidate may have as many observers at the counting of the ballots as may be necessary to observe the actual counting and to ensure a fair election. Candidates must be permitted to have observers at all phases of the counting and tallying process, including the counting and the tallying of the ballots and the totaling, recording and reporting of tally sheets. In a mail ballot election, candidates must be permitted to have an observer present at the preparation and mailing of the ballots and at their receipt, opening and counting.

Right of Member to Support Candidate

The act further prescribes that in the exercise of the right to support candidates of his or her choice, a member may not be subjected to penalty, discipline, or improper interference or reprisal of any kind by the union or any of its members.

Election of National and International Officers at a Convention

An election of officers of a national or international union may be held either by secret ballot of the members or at the convention of delegates elected by secret ballot. Where elections are by secret ballot of the members, the union must comply with all the requirements of the act relating to secret ballot elections. In addition, the union must conduct the election in accordance with its constitution and bylaws, insofar as they are not inconsistent with the election requirements of the act.

As long as officers of a national or international union are elected at a convention of delegates chosen by secret ballot and in accordance with the provisions of a constitution and bylaws that are not inconsistent with the requirements of the act, the manner in which the delegates cast their votes is not subject to special limitations. The act, therefore, does not require that the election of officers at a convention be by secret ballot. However, the delegates participating in such an election of officers must have been elected by secret ballot in accordance with the standards of the act. Nothing prohibits convention delegates from voting by proxy if the constitution and bylaws permit such a practice.

Election of Officers of an Intermediate Body

An election of officers of an intermediate body such as a conference, general committee, joint or system board, or joint council may be either by secret ballot among the members of the unions represented in the intermediate body or by the officers or delegates representing the members. The officers or delegates who represent particular organizations in the election of officers of the intermediate body must have been elected by secret ballot of their respective memberships.

Union officers who have been elected by secret ballot and who by virtue of their election to office are also delegates to the intermediate body would qualify to vote in the election of officers of the intermediate body if the constitution and bylaws so provide. The elections in the intermediate body are to be conducted in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the act.

Summary

- Local union elections required by the act must be held by secret ballot.
- All members in good standing have the right to vote, subject to reasonable rules, uniformly imposed.
- Rules for voting eligibility must apply to all equally, and special classes for nonvoting members normally may not be created.
- Notice of election must be mailed to each member in good standing at their last known home address not less than fifteen days before the election.
- Ballots of each local must be counted and the results published separately.
- All ballots, including used, unused and challenged ballots, envelopes used to return marked ballots, tally sheets, and related election documents, must be kept for one year.
- Each candidate has the right to have observers at each of the polling and tallying places.
- A member may not be penalized, disciplined, or improperly interfered with in the exercise of his or her right to support the candidate of their choice. Reprisals of any kind are not permitted.

- Additional requirements may be prescribed by the constitution and bylaws of the union if they are not inconsistent with the requirements of the act.
- Officers of intermediate or national and international labor organizations may be elected either directly by secret ballot of members or indirectly by officers of constituent locals or delegates elected by secret ballot for that purpose.
- Officers elected by secret ballot may also be voting delegates to intermediate bodies or national and international unions if the constitution and bylaws so provide.

Electing Union Officers By Mail: Suggestions and Safeguards.

Officials in charge of conducting a union officer election are responsible for protecting the right of every member to vote by secret ballot. Each candidate also is entitled to certain rights, including the right to have observers at each polling place and at each place where the ballots are counted. Since adequate safeguards must be provided to ensure a fair election, observers also must be permitted to observe all of the mail balloting processes, including the preparation, mailing and collecting of ballots.

Balloting by mail includes these steps:

- Preparing a membership and voter eligibility list;
- Preparing and mailing election notices and ballots;
- Collecting and tallying ballots; and
- Post election requirements.

Preparing a Membership and Voter Eligibility List

All members are entitled to fifteen days mail notice of the election whether or not they are eligible to vote. Each eligible voter is entitled to a ballot. Therefore, a list of members and eligible voters should be prepared before the date election notices and ballots are to be mailed. The list should be accurate, complete and current. It should contain each member's full name and last known address; identification information, such as a clock number or union card number; and voter eligibility number. The ballot with voting instructions can also serve as a notice of election if it is mailed at least fifteen days before the ballot must be mailed back in order to be counted.

Preparing and Mailing Election Notices and Ballots

The double envelope system-the method most commonly used to ensure the Secrecy of the ballot includes these steps:

Each member eligible to vote should receive:

- Notice of election and instructions for voting.
- One official unmarked ballot.
- One ballot envelope.
- One return-addressed envelope, with voter identification number or space for such a number, and space for the voter's name and address in the upper left corner. These four items should be placed in a larger envelope and mailed to the eligible voter at his or her last known address at least fifteen days before the date the ballot must be mailed back in order to be counted. These items should be mailed first class to ensure prompt delivery and forwarding, if necessary.

It is strongly recommended that two different addresses be used for the outside and inside envelopes. That way, all “return to sender” or bad addresses come to one place whereas completed ballots are received at another address.

All ballots, used and unused, and all election records must be preserved and accounted for. A certification of the exact number of ballots printed and delivered should be obtained from the printer. A certification of the exact number of ballots mailed to the members should be obtained from postal officials. Also, arrangements should be made to have undelivered ballots returned to the union’s election committee (or other group of responsible members or officials) for accounting purposes and possible re-mailing, subject to the rights of candidates to have their observers present during these activities.

Instructions to members must specify the cutoff date for counting the returned marked ballots:

Voting instructions should include the following:

- Mark an X or “☑” in the squares next to the names of the candidates of your choice. Do not mark the ballot in any other way.
- Place the marked ballot in the ballot envelope and seal. Do not mark the ballot envelope.
- Insert the ballot envelope in the return-addressed envelope.
- Mark and mail your ballot in time to arrive at the designated return address before (time, month, day and year).
- Ballot secrecy can be maintained only if you follow instructions and personally mark and mail your ballot.

Collecting and Tallying Ballots

Prior arrangement should be made with postal officials not to release ballots except to authorized election officials in the presence of candidates or their observers at the schedule time for the pickup.

Ballots should be picked up at the previously designated time, date and place and brought to the pre-announced tally site. The tally should be conducted promptly by the authorized election officials, all in the presence of candidates or their observers.

In conducting the tally, election officials should:

- Establish the identity and eligibility of the voter;
- Separate the ballot envelope from the return envelope, preserving the return envelope;
- Upon completing the above steps, remove the ballot from the ballot envelope and stack the ballots in lots of twenty-five, fifty or one hundred for tallying;
- Tally the ballots by reading the voter’s choice for each office, entering the results on the tally sheets, and rechecking the totals of each lot tallied for accuracy; and
- Have election officials, and preferably also the observers, initial or sign the tally sheets, certifying the accuracy.

Only election officials and authorized clerical personnel should handle the ballots and election records, and always within the view of the observers.

Post-Election Requirements

Publish election results either by announcement, posting, newspaper, or other suitable method or combination of methods. If the election involves more than one local, the voting returns from each local must be separately tallied and published. All election records, including membership and eligibility lists, copies of nomination and election notices, voting instructions, all return envelopes, marked, challenged, and unused ballots, and tally sheets must be preserved for one year by the election official designated in the constitution and bylaws or, if none is designated, by the union Secretary.



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