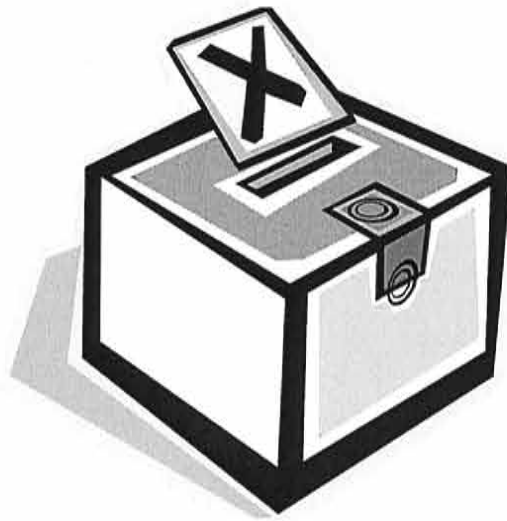


**NAGE FEDERAL DIVISION E-TRAINING**

# **CONDUCTING LOCAL ELECTIONS**





NAGE FEDERAL DIVISION E-TRAINING  
**CONDUCTING LOCAL ELECTIONS**

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## **Introduction**

This webinar is based on the guide “Conducting Local Union Officer Elections A Guide for Election Officials” prepared by the Office of Labor-Management Standards (OLMS) of the U.S. Department of Labor (DOL). It can be accessed online at:

**<http://www.dol.gov/olms/regs/compliance/localelec/localelec.pdf>**

(You can also do an internet search for “Local union elections” and the search results will take you to the DOL’s webpages)

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), establishes certain rights for union members and contains provisions to insure union democracy and financial integrity. In particular, Title IV of the LMRDA sets forth basic democratic procedures which unions must follow in conducting their officer and delegate elections.

Your Role as an election official is to be responsible for conducting your union’s election of officers in accordance with federal law and your union’s constitution and bylaws. In doing this, you will have several different roles — rule maker, communicator, and judge. You will need to be patient, knowledgeable, organized, firm, and, most of all, impartial. At times, your hard work may seem thankless. **But remember, your job is not to please everyone but to run a fair and honest election.**

Throughout the election process, election officials should be guided by three principles.

1. You should be fair and impartial, treating all candidates equally and avoiding any acts of favoritism or even the appearance of favoritism. You should maintain a businesslike relationship with all candidates even if you work with or are personal friends with any of them.
2. You must follow the election provisions in your union’s constitution and bylaws as well as any other union election rules as long as they are not inconsistent with federal law.
3. You should uphold American democratic traditions by protecting the right of every member in good standing to nominate candidates, run for office, and vote by secret ballot for officers of your union.

You are not expected to remember all the rules for conducting elections after reviewing this Guide. Read the applicable chapters to better understand election requirements and your responsibilities and consult the Guide frequently during the election process. Some elections may involve complex or unusual issues requiring you to seek further assistance. If you need advice, you can contact your NAGE rep or any NAGE office. Or you can contact DOL directly. Employees in the field offices listed at the end of the Guide can answer your questions about the laws and regulations you must follow during an election.

The DOL main office contact information is: (202) 693-0123, email: [olms-public@dol.gov](mailto:olms-public@dol.gov)

# Conducting Local Union Officer Elections

A Guide for Election Officials



**Official Ballot**

**[Redacted Name]**

[Redacted Name] ☐

[Redacted Name] ☒

[Redacted Name] ☐

**[Redacted Name]**

[Redacted Name] ☐

[Redacted Name] ☒

[Redacted Name] ☐

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# Chapter 1: Getting Ready

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At the beginning of nominations and the election, your job as an election official may seem overwhelming. However, if you think of the election process as occurring in various stages and understand your responsibilities at each stage, the entire process becomes more manageable. At this early stage in the process, preparation is most important since good planning and organization are key ingredients to conducting a fair election. This chapter outlines the first steps election officials should take to prepare for the election, including meeting with other election officials to determine specific election responsibilities, reviewing materials used in prior union elections, obtaining certain information from current officers of your union, and scheduling important nomination and election activities.

## Determining Election Responsibilities

The first step in getting ready to conduct an election is to determine your specific responsibilities as an election official. After being selected, election officials should arrange a meeting or discuss their roles by telephone as soon as possible. They should select a chairperson or leader if one is not already designated. If none of the election officials has ever conducted an election before, consider contacting members of your union who have served as election officials in prior elections to discuss their experiences, both positive and negative. Election officials may also wish to contact the union's parent body to seek advice or information as needed about your nomination and election responsibilities.

## Reviewing Materials from Prior Elections

After determining their general responsibilities, election officials should obtain and review the following:

- Your union's most recent constitution and bylaws, especially those provisions dealing with good standing, voter and candidate eligibility, notices to the membership, and any other officer election requirements. Each election official should have a copy to refer to as necessary throughout the election process. Any other union election rules should also be reviewed.

- Notices of election, ballots, tally sheets, and any correspondence used in your union's prior elections which may serve as models to use in this election.

Election officials should also review the sample letters, notices, ballot, tally sheets, and other nomination and election materials included as figures in this guide which may also be adapted for use in your union's election.

## Meeting with Current Officers

Well before the election process begins, it is very important that you and your fellow election officials meet with the current officers of your union to:

- Seek their cooperation and support. Make sure that they understand that you must remain impartial and that they are not entitled to any additional information, special privileges, or considerations because they are current officers.
- Find out if any problems occurred in the union's most recent nominations and election such as complaints about the polling site, voting hours, or voter eligibility. If so, ask the current officers for recommendations about how to avoid these problems in the upcoming election.

- Discuss which election responsibilities will be handled by the officers and/or union staff. For example, who will update the membership address list and who will mail election notices to all members?
- Determine the person in the union you should deal with to obtain election-related supplies and necessary information.
- Decide who will prepare the voter eligibility list, when it will be available, and the number of copies necessary. Keep in mind that the list must be up-to-date and contain the names of all members eligible to vote according to the provisions of your union's constitution and bylaws.
- Identify appropriate employer contacts who can provide any necessary information regarding voter or candidate eligibility or who can grant approval for use of employer facilities as polling places.
- Determine if and when "lost time" or other union payments will be made to election officials. For example, will the union pay lost time for election officials to prepare and mail campaign literature in response to requests from candidates?

It is important that election officials obtain this information early in the process and deal with the current officers "up-front" in order to avoid any misunderstandings and problems later.

### **Scheduling the Election**

After meeting with the current officers, election officials should meet as a group to make some important decisions. First, you must decide where and when the election will be conducted, following any applicable provisions in your union's constitution and bylaws. If the election will be at a polling place, you must select a polling location(s) and set the hours of voting to provide a reasonable opportunity for all members to cast ballots. Remember to select a polling location based on suitability, not just because a site was used in prior elections.

If the election will be conducted by mail, determine when, where, and by whom the ballot packages will be prepared and mailed, after thoroughly reviewing the information in *Electing Local Union Officers by Mail* at the end of this Guide.

Next, election officials should develop a detailed timetable which lists all important election-related dates and deadlines. An Election Planner is included in this Guide as Figure 1 to assist you in planning the important dates for the election. By starting with the election date and working backward, you can establish the dates of all major events such as the posting/mailing of the nomination notice, the nomination meeting, nominee acceptance deadline, mailing of the election notice, preparation and printing of ballots, and the ballot tally. In preparing the timetable, include time frames or deadlines specified in your union's constitution and bylaws and remember to consider holidays and weekends. After the timetable is established, election officials should decide who will be responsible for completing the various tasks outlined in the Election Planner.

### **Additional Suggestions**

Based on experience in investigating and supervising union officer elections, OLMS offers these additional suggestions to make conducting the election easier:

- Keep notes, copies of election materials, and records of decisions and actions taken throughout the nomination and election process. These records will serve to refresh your memory if any decision is later challenged or you are called upon to explain your actions and will also help others who conduct your union's future elections.
- Meet regularly to confirm that all required tasks are being completed and to discuss problems and other concerns. Review and discuss the contents of this Guide at each stage of the nomination and election process to make sure you understand your role and responsibilities.

- Develop a written set of rules setting forth both the significant dates in the nomination and election process and the guidelines to be followed by all parties during the election period. Figure 2 - Election and Campaign Rules is a sample set of rules for a fictitious union.
- Give copies of the election rules to all candidates and keep them informed of your decisions and any rule changes. Many problems which occur during union officer elections are caused by a lack of communication. You will find that members and candidates are less likely to challenge the election if you adequately explain the election rules and procedures in advance.
- Encourage candidates, observers, and members to raise any questions or problems about nomination or election procedures as soon as possible so that election officials have a chance to remedy any problems or make any necessary changes in the election rules.

Don't put things off until tomorrow. Investing a little time early in the process, pinpointing specific tasks and the persons responsible for completing them, and working as a team will result in a better-run election and will make your job as an election official easier and more rewarding.

#### Notes:





## Checklist for Conducting Local Union Officer Elections

This checklist has been developed by the Office of Labor-Management Standards (OLMS) to help election officials conduct union officer elections in accordance with the requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended. Organized chronologically, the checklist is designed to serve as a reminder of the various tasks which should be completed during the nomination and election process, including polling place procedures. If your union elects its officers by mail ballot or allows absentee ballots, election officials should also read *Electing Local Union Officers by Mail* for information and practical suggestions on how to conduct your union's election properly, using a double envelope system to insure ballot secrecy.

### Planning

- ☐ Review the union's constitution and bylaws as well as any other union election rules for information regarding nomination procedures, candidate qualifications, and voter eligibility requirements. Remember that elections must be conducted in accordance with provisions of your union's constitution and bylaws as long as they are not inconsistent with federal law.
- ☐ Contact current officers to find out how your union's most recent election was conducted and if any problems occurred. Also obtain copies of prior notices, ballots, tally sheets, and other records to use as models in the upcoming election.
- ☐ Meet with the other election officials to establish election and campaign rules, develop a general timetable which allows adequate time for each stage of the election, and discuss specific election duties.
- ☐ Select a polling site(s) and schedule polling hours which will provide all members a reasonable opportunity to vote. If the voting will take place on employer property, contact the employer to obtain approval.
- ☐ Contact your union's parent body or one of the OLMS offices if questions arise about any nomination or election requirements.

### Nominations

- ☐ Prepare a nomination notice that specifies the date, time, and place for submitting nominations and the offices to be filled (and identifies any offices for which the officer is a delegate by virtue of election to office). If appropriate, the nomination notice should also include the term of office, instructions for making, seconding, and accepting nominations, and eligibility requirements for candidates and nominators. A union may use a combined nomination and election notice as long as it is mailed to every member and includes all required information.
- ☐ Post and/or mail the nomination notice to all members in enough time to allow a reasonable opportunity for nominating candidates. Take steps to notify sick, laid-off, or other nonworking members who may be eligible to nominate candidates but who might not see a notice posted only at the work site(s) or union hall.
- ☐ Keep an accurate record of all nominations made including the names of nominators, members who second nominations, and the nominees and positions for which they were nominated.
- ☐ Check the eligibility of nominators (and members who second nominations) at the nomination meeting if your union requires them to be in good standing. Allow another member the opportunity to make the nomination if the original nominator is not in good standing.

- ☐ Determine the eligibility of all nominees and obtain nomination acceptances or declinations from each nominee. All candidate eligibility requirements must be set forth in writing in the union's constitution and bylaws and must be applied uniformly to all candidates.
- ☐ Notify all eligible candidates of their nomination and request the preferred listing of each candidate's name or nickname on the ballot in accordance with the election rules. Advise any ineligible candidates in writing of the specific reason(s) for their disqualification.

### **Campaign Guidelines**

- ☐ Notify candidates (in writing or by holding a meeting) of all election and campaign rules including the right to inspect the union's membership list, the right to have the union distribute campaign literature to members at each candidate's expense, and the right to have observers at the polling place and the tally of ballots.
- ☐ Advise candidates and current officers about the prohibition against the use of union and employer funds (including cash, facilities, equipment, supplies, and campaigning on time paid for by the union or employer) to support any person's candidacy in a union officer election.
- ☐ Allow candidates to inspect (not copy), once within 30 days before the election, a list of all members subject to a collective bargaining agreement which requires union membership as a condition of employment.
- ☐ Make arrangements to comply with all reasonable requests by a candidate to distribute campaign literature to members at the candidate's expense. If necessary, the union should employ additional temporary staff or a professional mailer to handle requests.
- ☐ Treat all candidates equally. For example, if any candidate is allowed to give a campaign speech at a union meeting or publish an article in the union's newspaper, all candidates for that position should be advised of and given the same opportunity.

### **Election Preparations**

- ☐ Update the union membership address list; remind members of the upcoming election through notices posted at the work site(s) or in the union newspaper and solicit any address changes.
- ☐ Prepare an election notice that specifies the offices to be filled and the date, time, and place of the election. If appropriate, the election notice should also include voter eligibility requirements, voter identification procedures, and information regarding absentee balloting.
- ☐ Mail an election notice to every member at his or her last known home address at least 15 days prior to the election as required by federal law. Also post copies of the notice at the work site(s) and the union hall in an effort to reach members who may not receive the mailed notice.
- ☐ Determine each candidate's position on the ballot in accordance with your union's election rules.
- ☐ Arrange for ballots to be printed and for the printer to provide an official count.
- ☐ Check the ballot carefully before and after printing for accuracy. Insure that each candidate's preferred name is used and correctly spelled, each office indicates the correct number of positions to be filled, and each candidate is listed for the proper office in the correct order.
- ☐ Maintain custody of and safeguard all ballots and be able to account for all ballots printed.
- ☐ Prepare an accurate voter eligibility list for use at the polls and update it, if necessary, immediately prior to the election.
- ☐ Establish challenged ballot rules (including the use of a double envelope system) for those persons whose voter eligibility is questioned at the polls.

- ☐ Inspect the polling site prior to election day. Plan how to best use the voting area, including the location of the registration tables, voting booths, ballot box, and observer area.
- ☐ Obtain a sufficient number of voting booths, partitions, or other dividers to provide a place for members to mark their ballots in secret.
- ☐ Plan for the tally of ballots and determine the counting and voiding procedures to be used. Prepare tally sheets to be used at the ballot count.

### **Polling Place Procedures**

- ☐ Insure that adequate information to verify voter eligibility and necessary equipment and supplies (including ballots and ballot box, voting booths/partitions, pencils, voter register, rubber bands, tape, etc.) are available at the polling site.
- ☐ Permit each candidate to have an observer(s) at the polls. Allow observers to monitor (but not disrupt) the election process and challenge the eligibility of any voter.
- ☐ Confirm that the ballot box is empty and seal it in the presence of observers before the polls open.
- ☐ Insure that any voting machines used are operating properly, that all candidates are listed correctly, and that the machine counters are set at zero. Be sure to have a supply of paper ballots on hand if machines break down or it becomes necessary to use challenged ballots.
- ☐ Open the polls at the scheduled time and follow the polling hours listed in the election notice.
- ☐ Require voters to identify themselves and sign a voter register before being issued a ballot by election officials.
- ☐ Check the eligibility of each voter and take steps to make sure that a member can only vote once by marking each voter's name off the eligibility list.
- ☐ Do not issue ballots to voters until a voting booth or other private space is available and insist that voters cast their ballots in secret.
- ☐ Provide a replacement ballot to any voter who spoils a ballot while voting. Maintain custody of all spoiled ballots and account for them at the completion of the ballot tally.
- ☐ Allow only election officials, voters, and observers in the polling area. Insure that election officials and observers do not wear campaign buttons, stickers, or other campaign apparel, and do not engage in any type of campaigning in the polling area.
- ☐ Maintain order at the polls at all times. Check the voting area periodically and remove any campaign material left behind by voters. Enforce a "no loitering" rule and establish an exit route for persons who have already voted.
- ☐ Establish procedures to provide assistance on an impartial basis to physically impaired or foreign language speaking voters.
- ☐ Close the polls on time but permit members in line at closing time to vote.
- ☐ Account for all ballots used at the polling site including any spoiled and sample ballots. The number of ballots printed minus the number of ballots issued to members should equal the number of unused ballots.

## Ballot Tally

- ☐ Begin the ballot tally only after all polls are closed.
- ☐ Open the ballot box in the presence of observers. Direct ballot counters to unfold ballots and place them in stacks of 50 or 100 in order to obtain the total number of ballots cast and to insure accuracy during the actual vote count.
- ☐ Allow observers to watch the counting and other related activities closely enough to verify the accuracy of the tally. However, observers should not be permitted to handle the ballots.
- ☐ Attempt to resolve any challenged ballots at the start of the tally. Keep a record of decisions made and explain the reason for each voter eligibility decision to observers. Mix in challenged ballots resolved as eligible with other ballots not yet counted to preserve secrecy.
- ☐ Count the votes on each ballot and enter the results on tally sheets, stopping at the end of each stack of 50 or 100 ballots to verify vote totals for each candidate.
- ☐ Void the entire ballot if it contains information identifying the voter. Void only the particular office involved if voter intent is not clear or if too many candidates have been selected for an office.
- ☐ Announce the tally results for each office. Report the number of valid ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots.
- ☐ Pack and seal in boxes all used and unused ballots, tally sheets, voter registers, voter eligibility lists, and other election materials upon completion of the tally.

## Post-Election Activity

- ☐ Publish and post the election results promptly.
- ☐ Maintain all nomination and election records for at least one year as required by federal law.

If you have any questions about the election procedures outlined in this checklist or wish to obtain additional information about union officer elections or other requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended, contact the nearest OLMS field office.

### OLMS Field Offices

Staff is available to answer questions about the LMRDA at OLMS offices in the following cities:

Atlanta, GA	Dallas, TX	Kansas City, MO	New Orleans, LA	San Francisco, CA
Birmingham, AL	Denver, CO	Los Angeles, CA	New York, NY	Seattle, WA
Boston, MA	Detroit, MI	Miami, FL	Newark, NJ	Tampa, FL
Buffalo, NY	Grand Rapids, MI	Milwaukee, WI	Philadelphia, PA	Washington, DC
Chicago, IL	Guaynabo, PR	Minneapolis, MN	Phoenix, AZ	
Cincinnati, OH	Honolulu, HI	Nashville, TN	Pittsburgh, PA	
Cleveland, OH	Houston, TX	New Haven, CT	St. Louis, MO	

For the address and telephone number of our field offices, please consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, or view our online organizational listing at <http://www.dol.gov/olms/contacts/lmskey.htm>.

**FIGURE 1**

## **Election Planner**

This Planner is designed to help union election officials plan for and schedule all the significant activities associated with conducting an officer election. The time projections noted are based on OLMS experience in supervising elections and, unless otherwise noted, are included as recommendations only. Some of the listed activities may occur in a different sequence in your union requiring that the time schedule be adjusted. Any other activities applicable to your union not listed below should be added to the schedule.

To use this Planner, first enter the date of the election and then work backward entering the date of each activity. Remember to consider holidays and weekends. Follow any dates or time frames specified in your union's constitution and bylaws and be sure to allow enough time for adequate completion of each activity.

<b>Date</b>	<b>Activity</b>
	Union membership list updated and revised with current addresses to be used for mailing election notices. (6 - 8 weeks prior to the election)
	Election and campaign rules prepared. (prior to the nomination meeting)
	Nomination notice posted or mailed. (at least 10 days prior to the nomination meeting)
	Deadline for receipt of written nominations, if applicable. (close of business on the day of the nomination meeting)
	Nomination meeting held. (4 - 6 weeks prior to the election)
	Deadline for receipt of candidate nomination acceptances. (within a week after the nomination meeting)
	Candidate eligibility verified and eligibility notification letters sent to all nominees. (immediately after the nomination acceptance deadline)
	Meeting with candidates held to discuss election and campaign rules. (as soon as possible after the nomination acceptance deadline)
	Period begins for candidates to inspect the union's membership list. (30 days prior to the election as required by the LMRDA)
	Ballot designed and arrangements made with printer. (3 weeks prior to the election)
	Voter eligibility list prepared. (15 - 20 days prior to the election)
	Notice of election mailed to the last known home address of each member. (at least 15 days prior to the election as required by the LMRDA)
	Ballots printed and challenged ballot envelopes, voter sign-in register, and tally sheets prepared. (1 week prior to the election)
	Polling place and ballot tally preparations completed and voter eligibility list updated, if necessary. (3 - 5 days prior to the election)
	Date of Election (Select a date and polling hours to encourage maximum voter participation. In a mail ballot election, enter the ballot mailing date which should be approximately 3 - 4 weeks prior to the ballot return deadline.)
	Ballots counted and election results announced.



## Chapter 9: Right to Vote

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The opportunity to cast a secret ballot in an officer election is the most fundamental right guaranteed by the LMRDA to all union members in good standing. A union may adopt rules in its constitution and bylaws defining good standing which usually relate to the payment of dues. Your responsibility as an election official is to insure that only members in good standing are permitted to vote. Since voter eligibility is one of the most common reasons that elections are challenged, preparing an accurate voter eligibility list is critical. The right to vote also implies a reasonable opportunity to vote; therefore, election officials must take into account factors such as distance to the polling site and hours of work when scheduling polling hours and locations. If members are dispersed over a wide geographic area, it may be necessary to establish multiple polling sites, conduct the election by mail, or make absentee ballots available in order to provide all members a reasonable opportunity to vote.

### Requirements

- A union may require that members pay dues in order to be eligible to vote. This usually means that a member must not be delinquent in the payment of dues at the time of the voting.
- A member in good standing whose dues have been checked off by the employer may not be disqualified from voting because of any delay or failure by the employer to send the dues to the union.
- A member on dues checkoff who has no earnings from which dues can be withheld may be held responsible for paying dues directly to the union in order to remain in good standing and be eligible to vote.
- A member who has failed to pay dues can lose good standing without a union trial or without notice if the union's constitution and bylaws so provide.
- A union may restrict the right to vote of unemployed members who go on withdrawal status and, as a result, do not pay dues. However, unemployed members actively seeking employment who do not go on withdrawal status and instead continue to pay dues may not be denied the right to vote.
- A union may adopt constitutional provisions restricting the right to vote by employers, managers, supervisors, contractors, apprentices, and retirees.
- Members who work only part time but pay the required dues may not be denied the right to vote.
- A union may require members to pay monthly or quarterly dues in advance. However, a union must provide a grace period (such as 30 days) during which dues may be paid without any loss of voting rights. A member who has not paid dues for the current month (or quarter) should not be considered delinquent unless the grace period has expired.
- A union may require a new member who signed a checkoff agreement to pay one month's dues in advance to be in good standing for the current month.
- A union may require a new member to have maintained good standing for a period of time, such as six months or a year, before being permitted to vote.
- A union may postpone the voting rights of members enrolled in a bona fide apprenticeship program until the members complete their apprenticeship.

- Reinstated members who have regained good standing lost because of dues delinquency or disciplinary action cannot be restricted from voting for a period longer than that applied to a new member.
- If a union knows in advance that a substantial number or particular segment of the membership will not be able to vote in person, absentee ballots or some other means of voting must be made available. Members should be notified of the availability of absentee ballots and election officials should follow the same procedures used in a mail ballot election. See *Electing Local Union Officers by Mail* at the end of this Guide.

### Suggestions

- Any deadline for paying delinquent dues in order to be eligible to vote should be established in accordance with your union's constitution and bylaws or other reasonable basis if not addressed in the constitution and bylaws.
- Election officials should attempt to have a complete, accurate list of eligible voters available as soon as possible. (Remember that the list of eligible voters may not necessarily be the same as the union's mailing list.) An accurate voter eligibility list will save time at the polls, result in fewer challenged ballots, minimize confrontations with voters and observers, and help prevent challenges to the election.
- If a member's name is not on your union's voter eligibility list or a question arises about a person's eligibility on election day, he or she should be instructed to vote a challenged ballot. See Figure 14 - Guidelines for Challenged Ballots. It is always better to allow a person to vote a challenged ballot (which will not be counted if the voter is later determined to be ineligible) than to risk denying an eligible member (whose name was improperly omitted from the eligibility list) the right to vote.

- Election officials should not be bound by polling hours and locations used in prior elections, particularly if members were denied a reasonable opportunity to vote. Make sure that members' work schedules and work locations are considered when establishing polling hours and places.
- If a location is to be used as a polling site for the first time, election officials should visit the location before election day to be sure the area is large enough, well lit, suitable for voting, has adequate parking, and is accessible to members.
- If necessary, election officials should contact the employer to resolve questions of voter eligibility.
- The voter eligibility list should be organized in a way that will be most useful to those checking eligibility on election day, such as alphabetically, by work site, or by clock number.
- If members will vote for some offices on a geographic, craft, or other basis, election officials should insure that the voter eligibility list accurately reflects in which category each member belongs.
- Election officials should review the voter eligibility list carefully just prior to the election to insure that new members have been added, deceased or suspended members have been deleted, etc.

### Common Pitfalls

- Failing to prepare a complete, accurate voter eligibility list.
- Providing members with the wrong geographic or craft ballot and thereby denying them the opportunity to vote for the proper office(s).
- Failing to provide adequate opportunity to vote for members working a late shift.
- Not providing multiple voting sites or mail balloting if members are widely dispersed.

## Chapter 4: Who May Run for Office

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Determining candidate eligibility will probably be one of your most important tasks as an election official, sometimes requiring you to make difficult judgments. Federal law provides that every union member in good standing is eligible to be a candidate and hold office subject to reasonable qualifications in the union's constitution and bylaws such as working at the trade or being in continuous good standing for a specific time period. Any qualifications must be applied uniformly to all candidates. As an election official you may be responsible for determining which nominees are eligible to appear on the ballot and, if so, you must be familiar with your union's candidate qualifications as well as the requirements of the LMRDA. If an eligible member is improperly denied the opportunity to run for office (or an ineligible person is permitted to run), the election might be successfully challenged even if everything else in the election was done correctly.

### Requirements

- "Member in good standing" means any person who has fulfilled the requirements for membership and who has not voluntarily withdrawn nor been expelled or suspended by the union. In most unions "good standing" requires the timely payment of dues.
- Any qualification which restricts a member's right to seek or hold office must be in the union's constitution and bylaws or other union rules. Unwritten requirements may not be used to disqualify a candidate. Since unions must give reasonable notice of nominations, all members should be informed in advance of new candidate eligibility requirements and any changes to the requirements.
- Candidate eligibility requirements must be specific enough so that any member can determine in advance whether or not he or she is qualified to be a candidate.
- All candidate eligibility requirements must be applied uniformly to all nominees. A requirement cannot be modified or waived (not enforced) for one candidate and not for others. However, if no eligible person is nominated for a particular office, a union may choose to waive a requirement for that office only.
- A candidate eligibility requirement may not be applied retroactively if it would result in members having no opportunity to satisfy the requirement.
- Section 504 of the LMRDA prohibits persons convicted of certain crimes from holding union office for a maximum of 13 years following conviction or the end of imprisonment (whichever is later).  
  
If necessary, review Section 504 at the end of this Guide for a list of the crimes which will cause persons to be prohibited from holding office and the circumstances under which a federal court can lift the prohibition. Questions about Section 504 should be directed to your union's parent body or OLMS.
- A member whose dues have been checked off by the employer may not be disqualified because of a delay or failure by the employer to send the dues to the union. However, a member on checkoff who has no earnings from which dues can be withheld may be held responsible for paying dues directly to the union in order to remain in good standing.
- A union may require members enrolled in a bona fide apprenticeship program to complete their apprenticeships before they are eligible to run for office.



- A union may not limit eligibility for a general office, such as president, to a particular branch or segment of the union if the restriction deprives members who are not in the branch or segment of the right to hold that office. However, if a position represents a unit defined on a geographic, craft, shift, or similar basis, a union may limit candidate eligibility to members of that unit.
  - Members who are supervisors on a permanent basis may not hold union office.
  - Candidate eligibility requirements based on race, color, sex, religion, national origin, or a maximum age may not be imposed by the union.
  - U.S. Department of Labor regulations prohibit candidate eligibility requirements which would require candidates: to pay a filing fee, to make a declaration of candidacy several months in advance of the nomination meeting, or to have prior service in a lower office in the union.
  - If a union has a qualification requiring a certain period of prior membership, it must give credit for prior membership in another affiliated local to any member who was involuntarily transferred into the union.
  - If a union has a "working at the trade" qualification requiring a member to be employed in the industry in which the union has collective bargaining agreements, the union should consider an unemployed member who is actively seeking employment in the trade to be "working at the trade."
  - If a union has a "continuous good standing" qualification based on the timely payment of dues during a specified time period, the union must provide a reasonable grace period during which members may make up missed payments without losing eligibility. For example, thirty days would be a reasonable grace period.
  - If a union has a "meeting attendance" qualification, the following factors should be used to judge the reasonableness of the requirement: the frequency of meetings; the number of meetings which must be attended and the period of time covered by the requirement; the nature, availability, and extent of excuse provisions; whether members have an opportunity to attend meetings; and the impact of the qualification.
- If a meeting attendance rule disqualifies a large number of members from candidacy, that large antidemocratic effect alone may be sufficient to make the requirement unreasonable.

### Suggestions

- Election officials should carefully review the constitution and bylaws or other union rules to determine the specific candidate eligibility requirements which will be applied in the election.
- Your union should maintain adequate and reliable records to verify that each nominee meets or fails to meet the candidacy requirements.
- If any questions arise about a candidate eligibility requirement, election officials should seek interpretations from parent body officials or guidance from prior election officials.
- If election officials believe that a candidacy qualification in the union's constitution and bylaws may be unreasonable, they should consult with the local or parent body official responsible for interpreting the provision to discuss whether it should be waived (not enforced).
- If your union has decided to waive (not enforce) an eligibility requirement in its constitution and bylaws, it should notify all members of this decision in the nomination notice.

- After nominations, election officials should review appropriate union records (such as dues payment records) to determine whether each nominee is eligible to be on the ballot.
- If necessary to resolve candidate eligibility questions, election officials should contact the employer to review employment records.
- Working as a team, election officials should reach agreement on the eligibility of all candidates and keep a record of eligibility information, such as a list of dues payments missed by each nominee.
- After checking and making decisions about candidate eligibility, election officials should notify each candidate in writing of their final determination on eligibility. Ineligible candidates should be notified of the specific reason(s) why they are not eligible to hold

office. See Figures 4 and 5 - Candidate Eligibility Letters.

### Common Pitfalls

- Making eligibility determinations without carefully checking applicable union or employer records for all candidates.
- Not applying candidate qualifications uniformly to all candidates.
- Failing to consider part-time employment and periods of disability and lay-off status in determining whether a member is “working at the trade.”
- Failing to consider dues checkoff payments which were received late from the employer in determining whether a member meets a “continuous good standing” requirement.

#### LMRDA Reference:

Section 401(e) provides that:

*... every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed) . . . .*

#### Union Constitution Reference:

#### Notes:

## Chapter 6: Distributing Campaign Literature

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As noted in Chapter 5, federal law establishes certain campaign rights for candidates in union officer elections including the right to have campaign literature distributed to the membership by the union at the candidate's expense. In some unions the officers or employees may be involved in the campaign literature distribution process; in other unions, election officials or a professional mailer may handle requests from candidates. No matter what the practice, a union has a duty to comply with all reasonable requests to distribute literature and to treat all candidates equally. Any refusal to comply with a reasonable request is improper and could result in the election being successfully challenged. Election officials can avoid many problems concerning the distribution of campaign literature by establishing distribution procedures prior to the campaign period and informing all candidates about them.

### Requirements

- A union must comply with all reasonable requests by a candidate for distribution of campaign literature at the candidate's expense. Federal law does not define "reasonable request" but election officials should try to comply with all requests to the extent possible, since any refusal might later be determined to have been unreasonable.
- Each candidate must be treated equally with respect to the cost of distributing campaign literature. There is no requirement that the union distribute literature free of charge. However, if a union distributes any candidate's literature without charge, all other candidates should be notified that they are also entitled to have their literature distributed without charge.
- A union should inform all candidates of the procedures for distributing literature in advance of the campaign period.
- A person need not be formally nominated to be entitled to distribute campaign literature. A union must distribute campaign literature for a bona fide candidate seeking to be nominated who makes a request, even if a union rule prohibits campaign mailings prior to nominations.
- A union may not regulate the contents of campaign literature it is asked to distribute and may not require that it be permitted to read the literature before distribution. The union may not censor campaign literature in any way, even if the literature includes derogatory remarks about other candidates. A union's contention that mailing certain campaign literature may constitute libel does not justify a refusal to distribute the literature since the union is under a legal duty to distribute the material.
- A union must honor requests for distribution of literature to all members in good standing and must also honor requests for distribution to only a portion of the membership if such distribution is feasible.
- A union may not refuse to distribute literature because it has no staff or a small staff. If necessary, a union should employ additional temporary staff, use a professional mailer, or have the election officials make the distribution in order to comply with any requests. Any costs (for producing address labels, hiring temporary employees, etc.) can be passed on to each candidate requesting a distribution of literature.

- A union may not limit the number of mailings which a candidate is permitted to make.
- A union may require candidates to pay in advance for campaign literature distributions, if such a requirement is applied uniformly to all candidates.

### Suggestions

- Election officials should determine from union officers how the union handled requests to distribute literature in prior elections and if any problems occurred.
- Election officials should decide how to handle requests to distribute campaign literature based on factors such as cost, availability of staff or election officials, etc. If appropriate, make necessary arrangements in advance to use union staff or a professional mailer to handle requests.
- To avoid charges of unequal treatment, election officials should notify all candidates in advance of the conditions under which the union will mail campaign literature, including to whom candidates should direct a request for distribution, the payment required, and any other rules which apply.
- One easy way for election officials to comply with requests for distribution is to require that

campaign literature be furnished to the union in envelopes which are already stuffed, sealed, and contain proper postage.

- If election officials discover that a candidate has used a "personal" mailing list which was created or obtained as a result of the candidate (or a supporter) serving as an officer or in a union job, the list should be made available to all other candidates.

### Common Pitfalls

- Not announcing procedures for the distribution of campaign literature in advance thereby giving the candidate who first makes a distribution request an advantage over other candidates who did not know about the distribution procedures.
- Insisting that a candidate's campaign literature be read and/or approved by election officials or current officers before it is mailed.
- Refusing a candidate's request to mail literature to less than the full membership if such a distribution is feasible.
- Imposing a deadline for making requests to mail literature and, as a result, refusing to comply with an otherwise reasonable request.

#### LMRDA Reference:

Section 401(c) provides that:

*... every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization ... to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature ... to all members in good standing of such labor organization ... with equal treatment as to the expense of such distribution.*

#### Union Constitution Reference:

## Chapter 8: Union and Employer Funds

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Although union funds may be used to pay for nomination and election notices and other expenses for conducting the election, federal law strictly prohibits the use of union and employer funds to promote the candidacy of any person in a union officer election. This prohibition was adopted to prevent a current officer from being able to use the union treasury to help finance an election campaign. It was also intended to prohibit an employer from being able to influence the outcome of a union election. Unfortunately, the use of union or employer funds is a relatively common problem in union officer elections. In many cases, however, the improper use is unintentional since the candidates, union officials, and employers simply do not know the extent of the restriction and that it applies to facilities, equipment, and supplies as well as cash. Election officials are presented with a challenge in that they do not control access to a union's or employer's funds, but are still expected to conduct an election in which no such funds are used. Therefore, election officials should make sure that all candidates, union officials, and union employees are aware of the restriction on the use of union and employer funds and should be alert throughout the election process for any improper use of funds.

### Requirements

- A union or employer may not contribute money or anything of value (such as the use of facilities, equipment, or supplies) to promote the candidacy of any individual in a union officer election.
- The restriction on the use of union funds applies to all moneys received by the union by way of dues, assessment, or similar levy.
- The prohibition against the use of union and employer funds applies to any union and any employer, not just the union conducting the election or an employer of the union's members. For example, it is improper for a candidate to have campaign literature duplicated free of charge on a copy machine at a small business owned by a relative of the candidate.
- Any expenditure of union or employer funds on behalf of a candidate, even if the amount is small, is a violation of federal law.
- The use of union/employer funds or facilities is a violation of federal law even if union officials or the employer do not know about or approve of the use.
- The prohibition against the use of union and employer funds applies to direct expenditures from the union or employer as well as indirect expenditures including:
  - campaigning on time paid for by the union or employer
  - use of union/employer owned or leased equipment such as telephones, fax machines, and copy machines
  - use of union/employer supplies such as stamps, paper, and envelopes
  - use of union employees to prepare campaign literature while on union time
  - use of the union letterhead
  - use of union/employer property or facilities
  - printing articles which support or criticize an individual's candidacy in a union newspaper or other publication
  - giving free services or special discounts to a candidate customer such as printing, photocopying, etc.
- A union may adopt additional rules governing contributions to campaign funds such as prohibiting contributions from any person who is not a member of the union.



- Certain uses of union and employer funds which do not support one person's candidacy over another are acceptable, such as providing the use of equipment, facilities, or publications to all candidates on an equal basis after giving them notice of this opportunity.
- Campaigning by union officials which is "incidental" to union business is not a violation of federal law. For example, any campaigning by union officials which occurs as a consequence of conducting legitimate union business, such as shaking hands with members while visiting work sites on official business, is permissible.

### Suggestions

- To insure that candidates are aware of the prohibition against the use of union and employer funds, election officials should issue rules explaining the restrictions. See Figure 2 - Election and Campaign Rules.
- Election officials should advise union officials about the prohibition against the use of union and employer funds. See Figure 6 - Union and Employer Funds Prohibition Letter.
- Election officials should advise the editor of any union-financed newspaper or other publication that the publication should not promote or criticize a candidate in any way during the nomination and election period such as by publishing articles complimentary of current officers or letters to the editor which are critical of any candidate.

- Current officers and union employees should be cautioned to take vacation time or a leave of absence if they are going to campaign during work hours, especially on election day.
- If election officials become aware of any improper use of union or employer funds before the election occurs, they should take appropriate corrective action such as requiring a candidate to reimburse the union or employer.
- Election officials should consult with the union's parent body or OLMS if they are unsure as to what specific action should be taken to remedy an improper use of union or employer funds prior to election day.

### Common Pitfalls

- Not advising candidates and union officials about the prohibition against the use of union/employer funds and resources so that unintentional violations of federal law can be avoided.
- Assuming that the prohibition against the use of union and employer funds applies only to cash expenditures and not to the use of equipment, supplies, or facilities.
- Allowing the union newspaper or other publications to be used to promote the candidacy of current officers.
- Failing to recognize that the use of funds, equipment, supplies, etc., belonging to other unions or employers which do not employ the union's members is improper.

#### LMRDA Reference:

Section 401(g) provides that:

*No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person . . . .*

#### Union Constitution Reference:

## Chapter 11: Ballots

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The ballot is an essential part of the democratic process. In civic and other types of elections, this country has adopted a voting system known as the "Australian ballot" — an official ballot containing the names of all candidates which is distributed only at the polling place and marked in secret. Despite having general familiarity with the balloting process, election officials may be confronted before the election with a number of ballot-related issues including ballot design, use of nicknames on the ballot, candidate position on the ballot, use of slate designations, number of ballots necessary for the election, and the printing, custody, and safeguarding of the ballots. Problems may also arise later if election officials are unable to account for all the ballots printed, so it is important to maintain physical control of the ballots throughout the election process.

### Requirements

- Instructions on the ballot should clearly state the manner in which members should mark their ballots; for example, "Mark an X or checkmark in the box next to the name of the candidates of your choice." The ballot should also indicate the maximum number of votes allowed for each office; for example, "Trustee - vote for no more than three." See Figure 9 - Official Ballot.
- A union may determine the position of candidates' names on the ballot in any reasonable manner permitted by the union's constitution and bylaws, consistent with the requirement of fairness and other provisions of federal law.
- Candidates may be listed on the ballot according to affiliation with a particular slate; however, a voter must also be able to choose among individual candidates if he or she does not wish to vote for an entire slate.
- Election officials must be able to account for all ballots printed. (The number of ballots printed minus the number of ballots issued to members should equal the number of unused ballots on hand at the end of the election.) Adequate controls and safeguards must be adopted by election officials to protect the

ballots such as counting the number of ballots received from the printer, maintaining ballots in a secure place prior to use, and keeping control of ballots and the ballot box at all times on election day.

- All used and unused ballots and other records pertaining to the election must be maintained for one year following the election. Election records include voter eligibility lists, sign-in registers, tally sheets, and any other documents or records used in the nominations and election.

### Suggestions

- Election officials should determine the union's policy concerning the position of candidates' names on the ballot and follow the policy uniformly. Also determine the candidates' preferred listing of their names in accordance with election rules; be consistent with the use of nicknames, addresses, or other identifying information. The size of the letters, type of print, and spacing of names on the ballot should not favor any candidate.
- If your union has no rule concerning the position of candidates' names on the ballot, election officials may decide to list candidates alphabetically or have candidates "draw straws" to determine position on the ballot.

- The voting instructions on the ballot should clearly advise members that any identifying marks placed on the ballot will result in the ballot being voided. See Figure 9 - Official Ballot.
- If your union allows write-in votes, the ballot should so specify and have spaces for write-in candidates for each office.
- Any offices for which the officer is a delegate by virtue of election to office should be clearly indicated on the ballot.
- Election officials should make arrangements to provide adequate voting instructions to any non-English speaking members, such as including a translation of the instructions on the ballot in the appropriate foreign language.
- Election officials should obtain a ballot used in the most recent officer election which can be used as a model in designing the ballot. Questions about ballot format can be discussed with a printer who should be able to provide expert advice about various options.
- Ballots should be acquired from an outside source such as a printer instead of using the union's copy machine to make ballots. The printer should be asked to provide an official count of the number of ballots printed.
- Election officials should carefully check the ballots and voting instructions for accuracy before and after printing to insure that each candidate's name is correctly spelled, each office indicates the correct number of positions to be filled, and each candidate is listed for the proper office.
- If voting machines are used, check that they are operating properly, that candidates are listed correctly, and that the machine counters are set at zero before the polls are opened. A supply of paper ballots should be on hand if the machines break down or it becomes necessary to use challenged ballots.
- The number of ballots ordered/printed should equal the total number of eligible members plus about 5 percent. Extra ballots may be necessary if voters spoil their ballots and need replacements. On the other hand, election officials should avoid having too many extra ballots printed since an excess of ballots makes it harder to safeguard and account for all ballots.
- If your union uses more than one ballot (for geographic, craft, or similar races), election officials should consider printing them on different colored paper so that they can be distinguished easily.
- If your union uses ballots which have serially numbered tear-off stubs (corresponding to a numbered voter sign-in register), voters should be advised to remove the stubs before depositing the marked ballots into the ballot box in order to preserve voter secrecy. However, use of serially numbered ballots is not recommended because members often fail to remove the stubs and secrecy may be compromised.
- A blank sample ballot (which is clearly marked "Sample Ballot") should be posted at the entrance to the polls to familiarize the voters with the ballot format and the candidates for each office. Posting a sample ballot should also reduce the amount of time members spend in the voting booths. (Remember that any official ballots used as samples should be accounted for at the end of the election.)
- Election officials should insure that enough ballots are available at each polling place prior to the start of the election to accommodate the number of expected voters. If different ballots are being used for various geographic, craft, or similar races, make certain each polling area has the correct number and type of ballots on hand. An election official should be able to quickly provide extra ballots to any polling site if needed.