

LOCAL UNION OFFICER ELECTIONS

**A Guide for Local Union Judges of Election,
Officers and Members**



**Laborers' International Union of North America
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CHAPTER ONE

APPOINTING JUDGES OF ELECTION AND BEGINNING THE ELECTION PROCESS

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, good planning and organization are key.

SECTION 1: APPOINTING THE JUDGES OF ELECTION

REQUIREMENTS

- The Judges of Election must be appointed prior to the Nomination Meeting by the Local Union's Executive Board. ULUC Article VI, Section 1(c). In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998), and In the Matter of LIUNA Local 304, IHO Order and Memorandum, 95-26P (October 26, 1995).
- The Judges of Election cannot be candidates for office, but they must possess all the requirements to be a candidate for office. ULUC Article V (See pg. 16 of this Election Guide). The exception to this rule is that retired members may be appointed to serve as Judges of Election. ULUC Article VI, Section 1(c). The IHO has ruled that there cannot be a waiver of the prohibition against a Judge of Election running as a candidate. In the Matter of Local Union 646, IHO Order and Memorandum, 95-19P (December 1, 1995).
- The Judges of Election do not have to be paid for their services; however, if a salary or other compensation such as "lost time" is to be paid, it must be fixed prior to the nominations. Note that adjustments to salary during the period of service as an officer must be made in accordance with ULUC Article VI, Section 1(d).

SECTION 2: BEGINNING THE ELECTION PROCESS

REQUIREMENTS

- A. **Determine Your Election Responsibilities:**
 - After being selected, meet to discuss your roles as soon as possible.
 - Select a chairperson or leader if one is not already designated.
 - If none of the Judges of Election has ever conducted an election, contact former Judges of Election from your Local Union to discuss their experiences, both positive and negative.

B. Review the Following Materials:

- The ULUC and EDP, especially those provisions dealing with good standing, voter and candidate eligibility, notices to the membership, and any other officer election requirements. Each Judge of Election should have a copy of the ULUC and the EDP to refer to as necessary throughout the election process.
- Notices of election, ballots, tally sheets, and any correspondence used in your Local Union's prior elections which may serve as models to use in this election.
- The sample letters, notices, ballot, tally sheets, and other nomination and election materials included in the Appendices of this Guide which may be adapted for use in your Local Union's election.

C. Meet with Current Officers

- Advise current officers of the need for their cooperation and support. Make clear that you must remain impartial and will not provide any special information, special privileges, or considerations to the current officers not otherwise available to the membership.
- If problems occurred in the Local Union's last nominations and election, ask the current officers for recommendations about how to avoid these problems in the upcoming election. For example, if the polling place used in the last election was not reasonably accessible to all those who voted, consider a different site or multiple sites.
- Determine which election responsibilities, such as updating the membership address list and mailing the election notices, will be handled by the Local Union officers and/or staff. Note that ULUC, Article VI, Section 2(j) provides that the Secretary-Treasurer is ultimately responsible for ensuring that the notices are mailed.
- Have prepared an up-to-date list of Local Union members eligible to vote, which is current as of 30 days prior to election. See, "Updating Your Union's Membership Mailing List." (Appendix N) (OLMS, October, 2002).

D. Schedule the Election

- At the May meeting, the membership must determine and fix the date on which the election will be held. ULUC Article VI, Section 2(j).
- Select polling location(s) and establish voting hours which provide a reasonable opportunity for all members to cast ballots. Just because a site was used in prior elections does not necessarily mean it is suitable.

- Develop a detailed timetable which lists all important election-related dates and deadlines. Consult the Election Planner on page G-1 in Appendix G. 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. After the timetable is established, decide which Judge of Election will be responsible for completing the various tasks outlined in the Election Planner.

SUGGESTIONS

- Keep notes, copies of election materials, and records of decisions and actions taken throughout the nomination and election process. These records will refresh your memory in the event of a protest and may serve as a guide for future Judges of Election.
- Meet regularly to: (1) confirm that all required tasks are being completed; (2) discuss problems and concerns; and (3) ensure you understand your individual role and responsibilities.
- Encourage candidates, observers, and members to raise any questions or problems about nomination or election procedures as soon as possible so that you have a chance to remedy any problems or make any necessary changes in the election procedures. Advising all candidates of your decisions in a timely manner will reduce the possibility of an election protest.
- Treat all candidates equally and avoid even the appearance of improper conduct. Although you might be able to separate your personal friendships from your official duties, socializing with candidates might indicate to the members that you are not as impartial as your duty requires you to be. Being a good Judge of Election might not win you a popularity contest, but it will make the Local Union a stronger and more democratic organization.
- Compensation for the Judges of Election should be reasonable in light of the services to be performed. If compensation is unduly high, it may give the impression that the judges are being given payment to favor the incumbent officers.
- Always err on the side of caution.

FREQUENTLY ASKED QUESTIONS

1. Can there be more than three (3) Judges of Election?

Yes. The ULUC Article VI, Section 1(c) specifies three Judges of Election because experience has shown that this number is sufficient to ensure a fair election process. If a Local Union feels that more Judges of Election are

absolutely necessary to preserve the fairness of the election, however, it may appoint more judges. In the Matter of Local 423, IHO Order and Memorandum, 98-27P (July 7, 1998). A variance from the General President must be obtained if you choose to appoint more than three (3) Judges of Election.

NOTE: If a Local Union is unable to retain three (3) Judges of Election, a variance should also be sought from the General President.

2. Can a member serve as a Judge of Election if he or she is related to any of the candidates of office?

There is no rule prohibiting a Judge of Election from being related to a candidate. In evaluating the conduct of the Judges of Election, it is ultimately the decisions of the Judges, not their relationships, that must be evaluated. In the Matter of Local 500, SEO Order, 01-SEO-12 (May 11, 2001). You are cautioned, however, that this may create the appearance of a conflict of interest unless extreme care is taken to show impartiality. Thus, where possible, it would be the better practice not to permit the brother, son, uncle, spouse, etc. . . of a candidate to serve as a Judge of Election. In the Matter of Local 1089, IHO Order and Memorandum, 97-12P (March 13, 1998); and In the Matter of Local 1359, IHO Order and Memorandum, 98-50P (September 19, 1998). In the Matter of Local 652, IHO Order and Memorandum, Nos. 96-13P, 96-61P, 96-62P (December 6, 1996).

3. Can the Local Union's Executive Board appoint a new Judge of Election if another Judge of Election is unable to perform his or her duties?

Yes. Circumstances do arise that are beyond a Judge of Election's control, and such events should not derail an election process that has already started. When an appointed Judge of Election becomes unable to serve due to unforeseen circumstances, a new Judge of Election may be appointed to replace him or her. Remember, the replacement Judge of Election must meet the qualifications for office set forth in the ULUC, Article V. In addition, if a qualified replacement is not available or appears to be unnecessary under the circumstances, the Local Union may seek a variance from the General President to operate with fewer than three (3) Judges of Election. In the Matter of Local 1359, IHO Order and Memorandum, 98-50P (September 19, 1998).

4. Can an incumbent member of the Executive Board serve as a Judge of Election?

Yes, however, the incumbent union officer must not be a candidate in the upcoming election. In the Matter of Local 1089, IHO Order and Memorandum, 97-12P (March 13, 1998). That is, the Officer must not be a candidate for re-election to the Executive Board. In the Matter of Local 1101, IHO Order and Memorandum, 96-90P (February 20, 1997).

CHAPTER TWO

NOMINATIONS

Federal law requires that members be given a reasonable opportunity to nominate the candidates of their choice. The Judges of Election must provide a timely notice of nominations and must use procedures which give all members a reasonable opportunity to make nominations.

SECTION 1: SCHEDULING THE NOMINATION MEETING AND NOTIFYING THE MEMBERS

REQUIREMENTS

- ❑ The Nomination Meeting must be held not less than ten (10) days nor more than twenty (20) days prior to the regular meeting of the Local Union in May of the election year. ULUC Article VI, Section 1(a).
- ❑ Notice of the Nomination Meeting must be dated and mailed to each member in good standing at his or her last known address no less than seven (7) days prior to the meeting. ULUC Article VI, Section 1(b). Notices must be mailed to sick, laid-off, or other non-working members who are otherwise members in good standing.

The nomination notice must identify the offices and positions to be filled in the election, including delegate positions (if applicable). * The notice must also include the date, time, place, and method for submitting nominations.

NOTE: The 23rd LIUNA Convention formally changed the title of Business Manager to Business Manager-Delegate to reflect the rule that a Local Union Business Manager is automatically a delegate to the District Council. In addition, if a LIUNA Convention will be held during the Business Manager's term of office, then the proper title of the office becomes Business Manager-Delegate-Convention Delegate and should be referenced as such in the notice of election, the nominations, and the ballot.

- ❑ In the event there is no contest for any office and the candidates are found properly qualified, the Judges of Election shall certify to the May meeting that there is no need for a secret ballot election, and the nominees shall be declared duly elected. ULUC Article VI, Section 2(e).

SUGGESTIONS

- The nomination notice could, but is not required to, provide information about the term of office, instructions for making and accepting nominations, and eligibility requirements for candidates and nominators, including eligibility requirements which have been waived or changed pursuant to a variance granted by the General President or an order of the Special Elections Officer.

* See, Uniform Local District Council Constitution, Article IV, Section 3, page 115 to determine if your Local Union is entitled to District Council delegates and, if so, how many.

- Obtain a copy of the nomination notice used for your Local Union's most recent election. If this notice contains the required information, the Judges of Election may wish to follow the same format.
- Retain a copy of the nomination notice for at least one year after the election and keep a record of the date it was distributed to the membership. Federal law requires that all ballots and all other records pertaining to the election be preserved for one year. 29 C.F.R. 452.106.
- Mail nominating instructions with the nominations notice which clearly explain the requirements for office and the requirements to nominate a candidate.

FREQUENTLY ASKED QUESTIONS

1. Should a notice be mailed to a member who is deemed suspended due to nonpayment of dues?

A notice is not required, but if a notice is given to some delinquent or suspended members, it must be given to all.

2. What time period does a member have to rectify his or her standing?

LIUNA members must pay dues by the close of business on the last day of the second month after the due date of the dues payment.

NOTE: The Independent Hearing Officer has recognized the mail-in exception used by the International Union. If dues are paid by mail and the payment is postmarked on or before the last day that dues may be paid, the payment will be considered to be timely. In the Matter of Local 1089, IHO Order and Memorandum, 97-12P (March 13, 1998).

SECTION 2: THE NOMINATION MEETING

REQUIREMENTS

1. **Qualifications of the Nominator**

A candidate must be nominated by another member in good standing. ULUC Article VI, Section 1(f). Please note that good standing in this context requires only good standing at the time of making the nomination, rather than the two (2) years of good standing required to run for office.

The nominator's good standing status must be determined at the nomination meeting in order to allow an eligible nominator the opportunity to make the nomination if the original nominator is not in good standing.

- ❑ The nominee must be present at the time of nomination, unless absent from the meeting on business of the Local Union, for the District Council, or for the International Union, or excused for just cause by a vote of the membership of the Local Union. Unexcused absence from a nomination meeting shall serve to disqualify such member from any subsequent nomination in the same election. ULUC Article VI, Section 1(f).
- ❑ If a nominator is not in good standing, disqualify the nominee and reopen nominations for that office.

2. **Nominee Protocol**

- ❑ Once a nomination is accepted, the nominee has no right to withdraw his or her candidacy prior to the election. Upon nomination, a nominee must indicate immediately whether he or she accepts or declines the nomination. ULUC Article VI, Section 1(f). Of course, to appear on the ballot a nominee who has accepted must still meet with the Judges of Election in order to be qualified.
- ❑ No member may be a candidate for more than one office, except where a combination of offices has been approved by the General President. ULUC Article VI, Section 1(g).
- ❑ For further discussion regarding qualifications of the candidate, See Chapter 4 of this Guide.

3. **The Nominations Process**

- ❑ Each member shall have the right to participate in the democratic decisions of the Union. Subject to reasonable rules, regulations, and qualifications as provided by the Uniform Local Union Constitution, each member in good standing shall have the right to nominate officers. Ethical Practices Code, Democratic Practices, Section 1.
- ❑ A Local Union must have the following officers and positions: President, Vice President, Recording Secretary, Secretary-Treasurer, Business Manager-Delegate*, Sergeant-at-Arms, Auditors (3), Executive Board Members, and Delegate(s) to the District Council (if applicable). ULUC, Article IV, Section 1. Nominations must be made in the above order. ULUC, Article VI, Section 1(g).

NOTE: Remember that nominations also must be made for any delegate positions to be filled in addition to Business Manager-delegate.

*or Business Manager-Delegate-Convention Delegate if a LIUNA Convention will be held during the Business Manager's term of office.

- ❑ Nominations must be made for all offices or positions to be filled. ULUC Article VI, Section 1(a).
- ❑ No quorum requirement may be imposed upon the Nominations Meeting.
- ❑ During nominations, when the office of President is being nominated, the chair should be handed to another officer to conduct nominations.
- ❑ When the nominations have been completed, the Chairperson of the meeting must state that the Constitution requires all candidates to appear before the Judges of Election, who must then examine them to determine whether or not each candidate possesses all of the qualifications required to hold office. ULUC Article VI, Section 2(c). The Judges of Election must then announce the time and place when such examinations will be made. ULUC Article VI, Section 2(b). Candidates are required to appear at such time and place and be examined unless absent on business of the Local Union, for the District Council, or for the International Union, or excused for just cause by the Judges of Election. ULUC Article VI, Section 2(c). If the candidate is absent for any of the above-mentioned permissible reasons, the candidate and the Election Judges must promptly schedule an alternate time and place so the candidate can be examined as to his or her qualifications. ULUC Article VI, Section 2(c).
- ❑ If a nominee is unopposed after the Union has provided reasonable opportunity for nominations, the Union does not have to include that position on the ballot, inasmuch as write-in votes are not permitted by the ULUC, Article VI, Section 3(h). (If nominees for all offices are unopposed under these circumstances, no election is necessary.)
- ❑ Make certain, prior to the nominations, of the exact number of Delegates to the District Council to which the Local Union is entitled. In the Matter of Local 292, IHO Order and Memorandum, 95-4P (November 9, 1995) (where the Local voted for 3 delegates, but was only entitled to two).
- ❑ The salary and compensation of Local Union officers must be established prior to nominations. ULUC, Article VI, Section 1(d). Keep in mind that compensation includes items such as vacation leave, sick leave, access to an automobile, and other benefits, and must be set before nominations as well.

SUGGESTIONS

Keep a complete and accurate list of the name of each nominee, the office to which nominated, and the person making the nomination.

Although not required, in the interest of promoting a fully informed membership consider indicating on the ballot any candidates who ran unopposed and the offices to which they were elected.

FREQUENTLY ASKED QUESTIONS

1. Can a member nominate himself/herself?

No. The ULUC, Article VI, Section 1(f), clearly states that “[a]ll members nominated shall be nominated by another member in good standing. . .” (emphasis added).

2. Can offices be combined?

Sometimes. The General President has the authority to grant variances and tolerances from specific provisions of the LIUNA Constitutions if he believes it necessary to fully accomplish an object or purpose of LIUNA or of its affiliates. IUC, Article IX, Section 11(b). Thus, if a Local Union believes that a combination of offices is reasonable and necessary, it must obtain express consent from the LIUNA General President in writing. In the Matter of Local 220, IHO Order and Memorandum, 96-72P (November 22, 1996) describes the process for properly seeking a combination of offices. **A variance that was granted to allow a combination at a prior election is invalid and has no effect for a subsequent election.**

3. Can a Local Union decide not to fill one or more of the offices listed in ULUC Article IV, Section 1?

No. In order to be relieved of the requirement to fill any office, a Local Union must obtain a written variance from the LIUNA General President. For example, where a Local Union membership voted not to elect Auditors, the Independent Hearing Officer determined that this Constitutional requirement could not be avoided without a prior variance from the General President. In the Matter of LIUNA Local 1036, IHO Order and Memorandum, 95-27P (November 20, 1995).

NOTE: With respect to **Delegates to the District Council**, however, in In the Matter of Local 1101, IHO Order and Memorandum, 96-90P (February 20, 1997), the Independent Hearing Officer found that it was acceptable to vote to have fewer than the required number of delegates to the District Council.

4. Can a candidate running for Business Manager separately run for District Council delegate?

No. The Business Manager is a delegate to the District Council by virtue of his office. ULUC Article IV, Section 4(e)(11). Therefore, if the candidate were allowed to run for both Business Manager and delegate, and won both, he would hold two delegate positions. A member can be a candidate for both delegate and a Local Union office other than Business Manager, however, as the delegate position is not considered an office under the ULUC. In the Matter of Local 762, IHO Order and Memorandum, 97-47P (January 27, 1998) and In the Matter of Local 942, IHO Order and Memorandum, 96-19P (October 25, 1996).

NOTE: If a Local Union has permitted the President or Secretary-Treasurer of the Local Union to be seated as a delegate to the District Council by virtue of that office, the candidate for President or Secretary-Treasurer may not also run for delegate, for the same reason. In the Matter of Local 652, IHO Order and Memorandum, Nos. 96-13P, 96-61P, 96-62P (December 6, 1996).

5. Can retired members nominate candidates for Local Union office?

Yes, as long as they are still members in good standing. Retired members have a strong interest in having their voices heard in Union affairs that directly affect them and should be allowed to participate fully in the democratic process. Retired members cannot, however, run for office themselves.

6. Is an exact amount required when setting the salary and other compensation of Local Union officers?

Yes. The compensation must be capable of precise verification. For example, it is permissible to decide that officers will receive wage plus \$2.00 because this amount is capable of precise determination.

NOTE: Vacation time, sick leave, automobile privileges and other benefits are considered compensation pursuant to General Executive Board Policy.

7. Is it proper to set a compensation package more favorable to the more experienced incumbents than for less-experienced potential challengers?

No. The SEO has ruled that such a policy plainly discourages political opposition and could influence any member's decision to run for office. In the Matter of Local 678, SEO Order, Nos. 07-SEO-45 and 07-SEO-49, (July 20, 2007) (incumbent Business Manager, if re-elected, would receive salary of about \$50,000 while new Business Manager would receive salary of \$38,000.)

8. Must the ULUC's provisions concerning the nomination meeting be read to the members at the meeting?

There is no such requirement in the ULUC. In the Matter of LIUNA Local 837, IHO Order and Memorandum, 95-08P (June 28, 1995). If the Judges of Election feel the circumstances warrant it, however, you may read the relevant provisions to the members in order to familiarize them with the nominations process.

9. If a member accepts a nomination for one office, can he or she later withdraw his or her acceptance if another member wants to nominate him or her for a subsequent office?

No. Once a member accepts a nomination for one office, he or she cannot accept the nomination for another office. In the Matter of LIUNA Local 837, IHO Order and Memorandum, 95-08P (June 28, 1995). In fact, once a member accepts a nomination, the member cannot then remove him or herself from the ballot. In the Matter of Local 270, SEO Order, 03-SEO-45 (August 22, 2003). Obviously, however, a nominee may be removed from the ballot by the Judges of Election or the SEO if he or she is deemed ineligible to run for office.

10. If the Judges of Election disqualify a candidate, are nominations reopened for that office or position?

Yes, but ONLY IF the disqualification results in there being no candidate for that office or position or, in the case of Executive Board Members, auditors or delegates to the District Council, fewer candidates than there are positions to be filled. If nominations are reopened, the Judges of Election must immediately examine the new nominees and make a report as to their qualifications at the same meeting.

11. If a member nominated as part of a "slate" is disqualified, must the Judges of Election reopen nominations to fill the slate?

No. There is no provision in the LIUNA Constitutions which entitles candidates to a full slate. In the Matter of LIUNA Local 304, IHO Order and Memorandum, 95-26P (October 26, 1995).

12. Is a member who has transferred into the Local Union from another LIUNA-affiliate eligible to run in the next election?

A member who has transferred his or her membership into another Local Union is not eligible to be a candidate for office until he or she has been in continuous good standing for two years. IUC, Article XXI, Section 5.

NOTE: If a Local Union is newly chartered, (for a period of less than two years), the “Qualifications for Office” provisions of ULUC, Article V, do not apply. With regard to merged Local Unions, good standing membership in the former Local Union satisfies the good-standing requirement in ULUC, Article V, Section 1.

13. What is the process for members to nominate a “slate” of officers?

As stated above, the LIUNA Constitutions do not directly address the issue of slate voting. For the purposes of nominations, however, the Constitution provides that “[n]ominations shall be made in the following order: President, Vice President, Recording Secretary, Secretary-Treasurer, Business Manager-Delegate*, Sergeant at Arms, Auditors . . .” ULUC Article VI, Section 1(g). Accordingly, members of a particular slate should be nominated individually, during the period of time where nominations are open for that particular office. (For information about how to identify a slate of officers on a ballot, See Chapter 7 of this Guide under Frequently Asked Questions).

NOTE: While slate voting is permissible, the balloting must allow members to vote for the candidates of their choice. Thus, the voter must be able to choose among individual candidates if he or she does not wish to vote for an entire slate and the voting instructions must clearly state that the voter need not vote for an entire slate. See 29 C.F.R. 452.112.

*or Business Manager-Delegate-Convention Delegate if a LIUNA Convention will be held during the Business Manager’s term of office.

CHAPTER THREE

SCHEDULING THE ELECTION

The election must be scheduled at a time and place which ensures that all members have a reasonable opportunity to vote. Reasonableness is the key word. The Local Union is not expected to accommodate the individual schedules or locations of each and every member. Frequently, what is reasonable depends upon the particular characteristics of the Local Union such as geographic jurisdiction or work schedules of the membership.

REQUIREMENTS

- ❑ The date of the election must be set by the Local Union membership. The membership must also determine the location and the hours during which the polls will remain open. These decisions must be made at the regular meeting of the membership in the month of May, following the nomination meeting. See ULUC Article VI, Section 2(j).
- ❑ There must be at least fifteen (15) days between the mailing of the election notice and the date of election. See ULUC Article VI, Section 2(j).

SUGGESTIONS

- Consider using more than one polling place if the membership is spread over a wide geographic area. The election can be held over a two-day period, so all the Judges of Election can be present at both polling sites. See also Frequently Asked Questions below.
- If the election takes place at more than one location, the Judges of Election should take caution to ensure the secured custody of the ballot box. For example, when the ballot box leaves the first location, the box should be sealed in the presence of all candidates and watchers, and each Judge of Election should sign across the seal. At the second voting location, the candidates and watchers should also be present when the ballot box is opened.
- If your Local Union has members that work different shifts, the polling place(s) should be open long enough to accommodate such schedules. Be reasonable and consider how long it would take most members to get to the polling site either before or after their work shifts.
- If a substantial portion of the Local Union membership is non-English speaking, prepare all notices regarding the election in the appropriate native language except as otherwise proscribed by law. English is the official language of the International Union, International Union Constitution, Article XXIV, Section 4. The Independent Hearing Officer and some federal courts have ruled, however, that failure to provide bilingual election information may preclude the required reasonable opportunity to participate in the election process and may result in a rerun.

FREQUENTLY ASKED QUESTIONS

1. In what month is the election normally held?

The membership must set the date of the election at the May meeting. ULUC Article VI, Section 2(j). The election need not be held in May, however. In fact, depending on when the May meeting is held, holding the election in May might not be adequate time for election campaigning and preparation. In most cases, the election is held in the month of June.

2. What is reasonable in terms of polling hours and polling sites?

The statutory protection of the right to vote implies that each union member should have a reasonable opportunity to vote. Thus, the local union is obligated to conduct its election of officers in such a way as to afford all its members a reasonable opportunity to cast ballots. What is “reasonable” may depend on factors such as the distance between the members’ work sites or homes and the polling place, the means of transportation available, the nature of the members’ occupations, and their hours of work. (29 C.F.R. § 452.94).

Accordingly, if your Local Union has a widespread membership, use of only one polling place may be a violation of the requirement to give all members a reasonable chance to vote. For example, use of one polling site, located a great distance from many work sites, where mail balloting had been an option, led the Independent Hearing Officer to conclude that Union members had not received a reasonable opportunity to vote. In the Matter of Local 576, IHO Order, 00-22P (May 26, 2000); In the Matter of LIUNA Local 784, IHO Order and Memorandum, 97-02P (April 3, 1997), citing Donovan v. Local 41, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, 598 F. Supp. 710, 716-717 (W.D. Mo. 1984). In another case, the Department of Labor vacated an election where the polls were open for only two and a half hours after members’ normal working hours and some members worked from 60 to 125 miles from the polling site. In the Matter of LIUNA Local 784, IHO Order and Memorandum, 97-02P (April 3, 1997), citing Hodgson v. Carpenters, Local 2287, Office of Labor-Management Standards No. 63-5616-7 (1970). In another LIUNA case, In the Matter of LIUNA Local 1278, IHO Order and Memorandum, 97-29P (October 2, 1997), a Local Union used only one polling place, open from 11:00 a.m. until 7:00 p.m., on a working day, where many members were located as far away as four hours by car. The Independent Hearing Officer determined that this arrangement did not give all the members a reasonable opportunity to vote. If your Local Union covers a wide geographic area, you might consider using multiple polling places, and/or holding the election on a Saturday, so it will not conflict with members’ work schedules as much. In contrast, the Independent Hearing Officer in In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998), found that nine (9) days of voting at 25 sites is quite reasonable. These are decisions which must be made based on the particular circumstances of your Local Union.

NOTE: Keep in mind that if multiple polling places are used, a Judge of Election should be present at each one.

3. May a Local Union use mail-in balloting?

Although Article VI, Section 3 of the ULUC requires in-person balloting, where a Local Union governs a wide geographic area, a request for a variance to use a mail-in ballot may be granted if a need to do so is demonstrated to the LIUNA General President. To determine when mail balloting is necessary for officer elections, consider the following: (1) the number of members remotely situated; (2) the geographic areas covered by the local; (3) whether members voluntarily assume the risk by locating outside the local's jurisdiction; and (4) whether the local uses alternative voting procedures for other important union referenda or elections. In the Matter of Local 1279, SEO Order and Memorandum, 02-SEO-22 (August 28, 2002) (citing McGinnis v. Local Union 710, 774 F.2d 196, 203 (7th Cir. 1985), the SEO found that a number of Local 1279's members were denied a "reasonable opportunity to vote" and ordered a rerun election by mail ballot). Only the LIUNA General President may grant a variance to use a mail-in ballot. In the Matter of Local 5, IHO Order and Memorandum, 00-12P (May 5, 2000); In the Matter of LIUNA Local 609, IHO Order and Memorandum, 95-15P (September 19, 1995). If your Local Union receives such a variance from the General President, you will receive written guidance at that time. You also are strongly encouraged to refer to the Mail Ballot Chapter in this Guide. There is no obligation to use mail-in ballots. The Constitution and the LMRDA only require that members are given a "reasonable opportunity" to vote. In the Matter of Local 724, Order and Memorandum Regarding Reconsideration, 98-53P (December 9, 1998). A variance granted to allow the use of a mail-in ballot in a particular election will not carry over to any subsequent election, that is, a new variance must be obtained.

Keep in mind that the SEO decides protests of mail ballot elections as well as walk-in elections. The SEO's decisions in these matters therefore should be consulted for guidance in following proper mail ballot procedures.

CHAPTER FOUR

THE CANDIDATES

As a Judge of Election, you must determine whether a candidate is eligible to run for office. Making this determination will probably be one of your most important tasks, sometimes requiring you to make difficult judgments. Article V of the ULUC sets forth the qualifications for candidacy. While your personal judgment is a valid part of a determination as to eligibility, you are cautioned that any error may damage the integrity of the process. If an eligible member of your Local Union is erroneously deemed ineligible to run for office (or if an ineligible person is allowed to run), the election might be successfully challenged even if every other aspect of the election process was done correctly.

REQUIREMENTS

1. **Procedural Rules**

- Each member in good standing, subject to the reasonable rules, regulations and qualifications of the LIUNA Constitution, shall have the right to run for office. Ethical Practices Code, Democratic Practices, Section 1. The rules for conducting a Local Union election and candidate qualifications are set forth in ULUC, Article V.
- In order to run for office, a member must:
 - (a) have been in good standing with LIUNA for two years prior to the nomination;
 - (b) have been in good standing with the Local Union for two years prior to the nomination;
 - (c) be a lawful permanent resident and shall be lawfully employable under the laws of the United States and Canada; this qualification may be established by presenting one of the following: 1) Birth Certificate – original or certified copy, issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal; 2) U.S. Passport (unexpired or expired); 3) Alien Registration Receipt Card with photograph (green card); 4) A Certificate of Naturalization; or, 5) such other documentation as the Judges may deem appropriate.
 - (d) be literate; and
 - (e) have been working at the calling the entire year immediately prior to the nomination. ULUC, Article V, Sections 1-4.

- ❑ Candidates are required to appear before the Judges of Election, who shall then examine them to determine whether or not each candidate possesses all of the qualifications required to hold office. ULUC Article VI, Section 2(c); In the Matter of Local 516, IHO Order and Memorandum, 00-32P (July 7, 2000). Failure to appear before the Judges of Election at the scheduled time will result in the nominee's disqualification unless he or she is absent on business for the Local Union, for the District Council or for the International Union, or excused for just cause by the Judges of Election.
- ❑ A Local Union cannot enforce newly adopted restrictions even if duly enacted and added to the LIUNA Constitution, or granted by variance from the General President, which the members had no opportunity to satisfy. 29 C.F.R. § 452.54. Thus, if the Local Union enacts a new rule two months before the election that requires all candidates to have attended at least half the meetings in the past year, the Local Union cannot use this to bar members from candidacy, even if properly enacted by obtaining a variance from the General President. Members must have an opportunity to comply with such requirement prior to its effective date.
- ❑ Members whose dues have been checked off by the employer may not be disqualified because of a delay or failure by the employer to send dues to the Local Union. A member on checkoff who has no earnings from which dues can be withheld may be held responsible for paying dues directly to the Local Union in order to remain in good standing. LMRDA Section 401(e).
- ❑ Eligibility for a general office, such as President, may not be limited to a particular branch or segment of the Local Union (based, e.g., on geographic, craft or shifts). 29 C.F.R. § 452.43. For example, if a Local Union represents a unit of trash haulers, a unit of heavy highway workers, and a unit of public service employees, the Local Union may not require that any candidate for President be part of the heavy and highway unit. This rule also applies if a Local Union represents workers in the same line of work but for several different employers. If the Local Union represents trash haulers at Employer A, Employer B, and Employer C, it may not require that the Local Union President be a part of the Employer A unit.
- ❑ A Local Union may not impose candidate eligibility requirements based on race, color, sex, religion, or national origin. 29 C.F.R. § 452.46.
- ❑ A Local Union may not impose candidate eligibility requirements which would require candidates to: pay a filing fee (29 C.F.R. § 452.52); make a declaration of candidacy several months in advance of the nomination meeting (29 C.F.R. § 452.51); or have prior service in an office of the Local Union (29 C.F.R. § 452.40).

2. **The Candidate is Disqualified If:**

- He or she has been debarred after trial by the Local Union (or LIUNA) from holding office, and the period of debarment has not ended.
- He or she is a member or sympathizer of any organization that has for its purpose the overthrow of LIUNA or the United States or Canadian governments. ULUC Article V, Sections 5 and 6.
- He or she has been convicted of certain crimes, in which case he or she cannot hold office for thirteen years following conviction or the end of imprisonment, whichever is later. Among the convictions which provide grounds to bar a person from candidacy are robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violations of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of Title II or III of the LMRDA, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the member of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such foregoing crimes, or a crime in which any of the foregoing crimes is an element. LMRDA Section 504. The court which sentenced the person for such a conviction may shorten this thirteen year period, if the person requests the court to do so. LMRDA Section 504. (See Frequently Asked Questions for more on this subject).

NOTE: If you are aware that a candidate has been convicted of a crime, you are strongly advised to seek advice from the International Union.

- He or she is a supervisor on a permanent basis for his or her employer. 29 C.F.R. § 452.46. This is to ensure that a Local Union officer has no conflict of interest. An elected officer must be a zealous proponent of the Local Union's interests, while a supervisor is expected to be an advocate of the employer's interests. These two goals have the potential to conflict with one another.

NOTE: This determination is also difficult and you are advised to seek advice from the International Union if you are faced with this situation.

3. **Good Standing**

- In determining the 2-year good standing requirement, credit must be given for prior membership in another affiliated Local Union to any member who was involuntarily transferred into the Local Union. 29 C.F.R. § 452.37. For example, if Local A was merged into Local B a year ago, and John Jones, who was a member in continuous good standing of Local A for many years, is nominated for Local B office, he must be given credit for his time in Local A in fulfilling the requirement of two years of good standing in Local B. If this were not done, those Local B members who came from Local A would not have an equal voice in Local B.

4. **Working at the Calling**

- A candidate must have been "regularly working at the calling" during the entire year immediately prior to nomination. ULUC Article V, Section 4, "Working at the calling" shall be defined to include:
 - (a) employment for which the Local Union serves, or is actively seeking to serve, as the exclusive collective bargaining representative of employees;
 - (b) employment in a full-time official capacity for the Local Union;
 - (c) employment by the government or the trade union movement in a capacity directly related to the calling and one which would directly benefit the Local Union and its members EXCEPT that employment by the Local Union in a clerical or administrative decision position shall not be deemed to be "working at the calling"; See, In the Matter of Local 225, IHO Order and Memorandum, 00-15P (May 26, 2000) (Local Union administrative assistant who was a member of the Local deemed unqualified).

NOTE: Members who are employed in clerical or administrative positions and who are therefore ineligible to run as candidates for office nevertheless retain their rights as members to participate in the affairs of the Union, including campaigning activities, to the extent permitted by applicable law.

- (d) periods of unemployment where the member was available for and continuously and actively sought employment at the calling which shall be understood as full compliance with the lawful rules of the referral service or hiring hall rules, if any, operated by the Local Union; and
- (e) members who can prove they were unable to work because of temporary illness or disability of less than one year so long as the member has a reasonable expectation of returning to work in the foreseeable future.

- ❑ In examining the circumstances of each particular case, due regard shall be given to the good faith involved. ULUC, Article V, Section 4(e). See, e.g., In the Matter of Local 270, IHO Order and Memorandum, 99-53P (July 7, 2000) (Six month vacation taken by member in year preceding election in order to spend time with his family was unreasonable length of absence and not a good faith effort to work at the calling); See also, In the Matter of Local 270, IHO Order and Memorandum, 99-53P (August 1, 2000).

SUGGESTIONS

- Carefully review the ULUC candidate eligibility requirements at Article V prior to the nomination meeting.
- Maintain reliable records to verify that each nominee meets or fails to meet the candidacy requirements.
- If your Local Union has requested and received a variance from the General President concerning an eligibility requirement, you should see to it that all members are notified of this decision in the nomination notice.
- Upon making a final determination on eligibility, notify each candidate in writing of the determination. Ineligible candidates should be notified of the specific reason(s) why they were deemed to be ineligible.
- Keep a written record documenting the reasons for all determinations.

FREQUENTLY ASKED QUESTIONS

1. Are the crimes listed by the LMRDA prohibiting a person from holding office the only crimes which can bar a person from office?

No. Those examples are not the only crimes that can bar a person from candidacy. Convictions for offenses involving similar conduct will also disqualify a member from holding office. For example, where a union member was convicted under an intimidation statute of assault, but not assault as explicitly defined in LMRDA Section 504, the Court found that the member would still be disqualified from office under the facts of the case. United Union of Roofers, Etc., No. 33 v. Meese, 823 F.2d 652 (1st Cir. 1987). Moreover, a member suspended under the Ethics and Disciplinary Procedure, either as a result of a felony indictment or for other disciplinary charges, has been held by the IHO not to be in good standing for purposes of eligibility for office. In the Matter of Local Union 310, IHO Order and Memorandum, 95-14P (October 17, 1995).

NOTE: If there is a question as to whether a person's past criminal acts should be grounds for barring that person from office, contact the Inspector General's office or the LIUNA Legal Department for guidance. Willful violation of this prohibition is in itself a crime under LMRDA Section 504(b); therefore, its requirements should be taken very seriously. In the Matter of Local Union 646, IHO Order and Memorandum, 95-19P (December 1, 1995) (where a member convicted of the felony of possession of marijuana was barred under the statute).

2. If a member would like to protest the qualifications of a nominee, may the complaining member be present at the qualification meeting with the nominee and the Judges of Election to voice his concerns?

Article VI, Section 2(d) of the ULUC provides that any member wanting to protest the qualifications of any candidate or who may have information regarding the qualifications of a candidate may appear before the Judges of Election at the specified time and place. But see, In the Matter of Local 791, IHO Order and Memorandum, 96-22P (May 23, 1996) (where the Independent Hearing Officer comments that no person other than the Judges of Election may attend a qualification meeting).

3. If a member has been suspended for late payment of dues within the past two years, is that enough to make him ineligible for not being in "good standing" for the two previous years?

Yes it is, provided that this requirement is applied consistently to all similarly situated members. As part of the requirement that all candidates be members in good standing for the two years previous to the nomination, a member cannot be a candidate if he has been suspended for late payment of dues in that time period. There is an exception to this rule which has been recognized by LIUNA: If dues are paid by mail and the letter is postmarked on or before the last day that the dues may be paid, the payment will be regarded as a timely payment even though the dues are received after the cut off date. This exception was created for those members who live long distances from the union hall or are working and must make their payments by mail. There is no corresponding exception for a late personal delivery, however. For example, a member cannot get a money order dated the last day of the month, personally deliver it to the union hall on the first of the following month, and expect it to be accepted as timely. In the Matter of Local 1089, IHO Order and Memorandum, 97-12P (March 13, 1998); In the Matter of Local 1278, 97-29P(1) (October 2, 1997); In the Matter of Local 718, IHO Order and Memorandum, 97-19P (October 2, 1997) (not a member for 2 years as required).

Note that a member who has been suspended for failure to pay dues becomes readmitted or reinstated only after he or she is recorded as such by both the Local Union **and** the International Union. See, In the Matter of Local 81, SEO Order, 03-SEO-07 (June 5, 2003).

4. If there is a question as to whether or not a member is retired, and thus ineligible to hold office, what factors should the Judges of Election use to make their determination of eligibility?

Article V, Section 11 of the ULUC provides that any person who receives a pension from a pension or retirement fund related to the International Union or any affiliate thereof shall be presumed to be a retiree and, therefore, not to be working at the calling of the International Union and not to be qualified as a candidate for office. The burden is on the pension recipient to demonstrate affirmatively to the satisfaction of the Judges of Election that the constitutional qualifications for office are otherwise met. Relevant factors include whether the nominee is receiving Social Security or disability; whether a nominee pays full or reduced union dues; and whether a nominee has been working at the calling as required by Article V, Section 4 of the ULUC. In the Matter of Local 942, IHO Order and Memorandum, 96-58P (October 4, 1996). Evaluation of these factors should be examined under a totality of the circumstances/good faith standard. See also In the Matter of Local 17, IHO Order and Memorandum, 98-47P (September 16, 1998); and In the Matter of Local 1101, IHO Order and Memorandum, 96-90P (February 20, 1997). The eligibility of a pensioner to run for office has sometimes been misunderstood by the Judges of Election. In the past, the Judges of Election would on occasion automatically disqualify pensioners without examining whether the individual nonetheless was working at the calling and met the other qualifications for office set out at Article V, Section 10 of the Uniform Local Union Constitution. To address this problem, the Constitution was amended at the 1996 Convention to clarify that pensioners who satisfy the normal Constitutional requirements are eligible to run. The mere fact that a nominee is receiving a pension from a LIUNA entity will not disqualify the individual from running for office where the Judges of Election determine that the person otherwise meets the Constitutional qualifications for office.

5. What factors should the Judges of Election consider in determining whether a member is a "supervisor" and thus ineligible to hold office?

The fact that a person is designated as a "supervisor" at his job does not by itself bar that person from running for Local Union office. The test of whether a person is a part of management, and thus ineligible to run for office, is whether his duties, his pay, and his role in the management of the company indicate a conflict of interest between his obligations to the employer and his obligations to the Local Union. For example, a member who held the title of supervisor, but who remained on hourly wage, did not have authority to hire and fire employees, and signed the out of work list during seasonal lay off, was found by the Independent Hearing Officer to be eligible to run for office. In the Matter of Local 527, IHO Revised Order and Memorandum, 97-28P (April 27, 1998); In the Matter of Local 225, IHO Order and Memorandum, 00-30P (August 10, 2000) ("Watch Commander" deemed to be "working at the calling"). On the other hand, the IHO ruled that a member was not "working at the calling" where his position as "Nighttime Superintendent" gave him authority to make independent judgments in recommending that the employer hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline and direct other employees in the interest of the employer, where the member's

compensation was far in excess of the basic hourly wage, and he was permitted to drive a company leased vehicle for business and personal use. In the Matter of Local 81, IHO Order and Memorandum, 00-17P (May 30, 2000). The DoL has also issued regulations under which a member can be denied the right to hold office if there is a reasonable basis for assuming that the person would be subject to a conflict of interest between carrying out his representative duties for the Union and carrying out his duties as an employee/supervisor. 29 C.F.R. § 452.47. Again, this can be a difficult determination, and the Judges of Election should seek advice from the International Union.

6. Can secretaries or administrators who have already held office since before 1991 still run for office?

Yes. The International Union permits persons who were grandfathered by the General Executive Board decision to run in subsequent election for any office within the union. In the Matter of Local 343, IHO Order and Memorandum, 98-54P (September 17, 1998).

At issue is the 1991 amendment to the Uniform Local Union Constitution, Article V, Section 4(c) which provides that "employment by the Local Union in a clerical or administrative position shall not be deemed to be `working at the calling.'" The General Executive Board clarified this amendment at the August 17, 1992 Board meeting, stating that this provision did not apply to secretaries/clericals who held office prior to when the amendment passed in 1991. Since some members in clerical or administrative positions have been long-time office holders in their Local Union, the Board determined that they were entitled to the benefit of the grandfather provision and are therefore deemed to be "working at the calling." Once a person is deemed to be "working at the calling" for purposes of any office, that person is eligible to run for every office at any level in this Union. In the Matter of Local Union 81, IHO Order and Memorandum, 97-25P (November 19, 1997).

7. Can a member run for office while holding membership in another labor organization?

There is no rule barring a member of LIUNA, when unable to find work at the calling, from working at another trade and belonging to another union, provided the member continues actively to seek employment at the calling with LIUNA and accepts work when offered. Generally speaking, if work in a different union could be fairly characterized as the member's primary occupation, then the member may be deemed ineligible to run for office in the LIUNA Local Union. Please note, if the member holds office in the other labor organization, he is ineligible to hold office in a Laborers' Local Union, regardless of his or her other qualifications. In the Matter of LIUNA Local 50, IHO Order and Memorandum, 95-13P (September 19, 1995) and In the Matter of Local Union 646, IHO Order and Memorandum, 95-19P (December 1, 1995).

8. Is a member "working at the calling" if he or she works for a non-union company when unable to obtain employment with a LIUNA affiliated company?

Yes, although this practice obviously is frowned upon. The member still must comply with the hiring hall rules of his or her Local Union in order to be considered "working at the calling," however, In the Matter of Local 456, IHO Order and Memorandum, 97-23P (March 31, 1998); and In the Matter of Local 493, IHO Order and Memorandum, 97-13P (March 2, 1998). The member may be viewed as not "working at the calling" if he or she chooses to work non-union jobs instead of available union jobs.

9. Can a member be considered to be "working at the calling" if he or she refuses to accept a job referral?

Only if the refusal is reasonable in light of the circumstances. Members must comply with the requirements of the Local Union's job referral procedures. See, e.g., In the Matter of Local 332, SEO Order, 03-SEO-26 (July 15, 2003) (unemployed members must sign the out-of-work list at the local union, as often as the local union's referral rules require, to remain eligible to run). Thus, if the member refuses a few job referrals because they would require travel of a great distance that might be reasonable. See, In the Matter of Local 576, IHO Order and Memorandum, 00-22P (June 20, 2000). On the other hand, if a member consistently refuses referrals for no good reason, or, in accordance with valid job referral rules is removed from the list, he or she can be deemed to be not "working at the calling".

10. What types of employment would satisfy the provisions of ULUC Article V, Section 4(c) that classifies "employment by the government or the trade union movement in a capacity directly related to the calling and one which would directly benefit the Local Union and its members . . ." as "working at the calling"?

In the Matter of Local 1082, IHO Order and Memorandum, 96-29P (August 29, 1996) discussed several past cases where the LIUNA General Executive Board ("GEB") has addressed this issue. In 1977, a GEB Hearing Panel found a member who had been employed as a full time organizer for the State Coalition of Public Employees, an organization which worked directly in conjunction with the LIUNA Regional Office, to be "working at the calling." A 1990 GEB Hearing Panel found a member was "working at the calling" when he served as a full-time editor of an official publication of the AFL-CIO, a publication that was funded through tax paid by affiliated Unions, including the Local Union of which the editor was a member. In 1982, the General Executive Board found that a member's employment as the County Prevailing Wage Coordinator qualified as "working at the calling." The position had been created by efforts of the Local Building Trades Council. Finally, in In the Matter of Local 1082, IHO Order and Memorandum, 96-29P (August 29, 1996), the IHO determined that a member who served as President of the AFL-CIO's Metal Trades Council of Southern

California was also "working at the calling." Of course, these examples are not the only types of jobs that could satisfy the requirements of ULUC Article V, Section 4(c), but they do provide guidelines for making decisions in individual cases. Conversely, the IHO has ruled once that employment as a site safety manager or inspector is not "working at the calling" in that there is no LIUNA Local Union which is actively seeking to serve as the exclusive bargaining representative of site safety managers and such position does not advance the union movement. In the Matter of Local 79, IHO Order and Memorandum, 00-21P (May 26, 2000). If you are unsure whether a job description meets these requirements, you are advised to seek counsel from the International Union.

11. If a member has not worked at the calling for the entire year prior to the election, is his simple claim that he was "disabled" adequate to fulfill the qualifications of candidacy?

No. The member must give all available proof that he was disabled, and thus unable to work. The IHO has found that a member who did not provide any information about his claimed disability was disqualified from running for office. In the Matter of Local Union 67, IHO Order and Memorandum, 95-16P (October 4, 1995); and In the Matter of Local 1278, 97-29P(1) (October 2, 1997).

NOTE: A disabled member must still pay dues during his or her period of disability. In the Matter of Local 1278, IHO Order and Memorandum, 97-29P(1) (October 2, 1997).

12. What steps should be taken if all the nominees for a certain office are found to be unqualified?

If all the nominees are later found to be unqualified for office, the Local Union should reopen the nominations pursuant to the procedure stated in ULUC, Article VI, Section 2(f).

13. If, in examining a candidates' qualifications, the Judges of Election fail to request proof of lawful permanent residency, would this be grounds for a re-run election?

Not necessarily. If a candidate does in fact meet the residency requirement and is eligible to run for office, the Judges' failure to request proof thereof would not affect the outcome of the election. See, In the Matter of an Election Protest between Albert Belyea and Laborers' International Union of North America, Local 900, CIHO Decision (July 17, 2003).

14. Is the position of dispatcher at a Local Union “working at the calling”?

The answer depends not on the job title but on the specific job duties of the individual dispatcher. Although dispatching work has administrative components, a dispatcher may be deemed qualified in instances where the job requires the use of independent judgment, field expertise, or where the individual’s job duties taken as a whole are akin to those of a field representative or organizer. See, In the Matter of Local 809, SEO Order, Nos. 07-SEO-55 and 07-SEO-56 (August 22, 2007). (Dispatcher deemed “working at the calling” who oversaw all aspects of the dispatching process and who also was the Apprentice Coordinator and assisted in the processing of grievances).

15. Are apprentices allowed to run for or hold Local Union office?

No. Apprentices are ineligible to run for or hold Local Union office. ULUC, Article III, Section 4; In the Matter of Local 429, SEO Order, 07-SEO-38 (June 14, 2007).

CHAPTER FIVE

CAMPAIGNING

After nominations are completed, candidates usually begin to campaign in earnest, meeting voters, making speeches, and distributing their campaign literature. Conflicts and problems sometimes arise during the campaign period and, in order to deal with them, the Judges of Election must be knowledgeable about campaign rules and the basic rights of candidates under Federal law. The Local Union is bound by a **general rule of fairness** -- if one candidate is given a certain opportunity or privilege then all other candidates must be given the same opportunity or privilege. As a Judge of Election, you must not discriminate among candidates and should not appear to favor any current officers who are candidates. Maintain a businesslike relationship with all candidates even if they are personal friends, work associates, or political foes. To avoid misunderstandings and insure that candidates are treated equally, develop campaign rules, inform all candidates about them, and enforce the rules uniformly.

SECTION 1: GENERAL CAMPAIGN RULES

REQUIREMENTS

- ❑ Candidates must be given a reasonable period to campaign prior to the election. What is a reasonable period of time depends upon the circumstances, including the size of the Local Union, the number of members in the Local Union, and the geographic area in which it operates. 29 C.F.R. §452.79. For example, for a Local Union of 100 members all working at one job site, two weeks might be a reasonable period of time to campaign. In a Local Union with 1000 members working at various job sites spread across 100 miles, more time should probably be given to campaign. See, In the Matter of Local 225, IHO Order and Memorandum, 00-30P (July 17, 2000) (Ruling that 10 days is insufficient even in a mail ballot and that ballots should not be mailed until the candidates have had the opportunity to campaign for 15 days).
- ❑ Equal opportunity to campaign must be provided. For example, if one candidate is invited to speak at a Local Union meeting, all candidates for the same position must be invited to speak at the meeting for the same length of time. Similarly, a Local Union cannot allow one candidate to place a campaign article in the Local Union newspaper without first notifying other candidates that they, too, may campaign this way. 29 C.F.R. § 452.73-452.75; In the Matter of Local 270, IHO Order and Memorandum, 99-53P (April 19, 2000); In the Matter of Local 29, IHO Order and Memorandum, 99-45P (February 10, 2000) (failure to provide one slate with a copy of the ballot at same time as the other slate could have affected the outcome of the election).
- ❑ If one or more candidates is allowed to campaign in a certain way, the other candidates must be informed of their right to take the same action, even if the other candidates do not inquire about that specific method of campaigning.

- ❑ The Local Union cannot use its authority to impose conditions on the processing and mailing of campaign literature that would be an unreasonable burden on the candidates' right to mail. In the Matter of Local 81, IHO Order and Memorandum, 00-29P (September 27, 2000) (unreasonable to require candidates to process mailings on Sunday where office secretary required double her hourly wage and incumbents avoided certain of such costs).
- ❑ Candidates must be allowed a one-time opportunity to inspect but not to copy the Local Union's membership list within 30 days prior to the election. The list consists of members subject to a collective bargaining agreement which requires membership in the Local Union as a condition of employment. See LMRDA Section 401(c); See also Frequently Asked Questions and Section 3 of this Chapter for more on this subject.
- ❑ A candidate, like any member, is entitled to review all collective bargaining agreements to which the Local Union is a party.
- ❑ Union funds and/or employer funds may not be used to support the candidacy of any person. LMRDA Section 401(g); see also Section 4 of this Chapter. This rule is to be enforced strictly. For example, it would be a violation for an incumbent officer to use the Local Union telephones to make campaign calls, even if done after working hours on his or her own time. An incumbent officer may not go to job sites for the purpose of campaigning while on Local Union time. The Local Union is allowed to use its funds to distribute to the membership, on an equal basis, campaign literature submitted by the candidates. 29 C.F.R. § 452.73.
- ❑ It is unlawful for any candidate to use union resources to support his campaign.

SUGGESTIONS

- Shortly after determining which nominees are eligible, meet with the candidates to advise them of the election and campaign rules and to answer any questions.
- Make it clear to all candidates that use of Local Union or employer funds for campaigning is strictly prohibited. Advise candidates to keep records of campaign contributions and expenses so that any future allegations of improper campaign funding can be resolved.
- Advise current officers to take vacation time (if available) if they are going to campaign during work hours, especially on election day.
- The key to all campaign rules is equality. Whatever one candidate is permitted to do, all candidates for the same office must also be allowed to do.

FREQUENTLY ASKED QUESTIONS

1. Can candidates use non-members to help campaign?

The Labor Management Reporting and Disclosure Act (“LMRDA”) expressly prohibits union and employer financial contributions to union elections. LMRDA § 401(g). This rule applies to all employers - it is not limited to employers that have contracts with the Local Union. All labor organizations are also prohibited from providing financial assistance to candidates – not just the Local Union holding the election. The LMRDA is silent, however, regarding the non-monetary participation of non-members in an election.

While the IHO has suggested in prior determinations that allowing the participation of outsiders in an election campaign could be detrimental to the Union because outsiders do not have a stake in the Local Union’s goals, he has also recognized that there are cases where such outside assistance would be permissible. See In the Matter of Local Union 137, IHO Order and Memorandum, 98-37P (September 28, 1998) (permitting a paid consultant to the Local Union to participate in the election); but see, In the Matter of Local Union 646, IHO Order and Memorandum, 95-19P (December 1, 1995)(prohibiting a parole officer, a public official, from influencing voters in a Local Union election). Such action should not be problematic if a candidate’s spouse or other family member campaigned or makes financial contribution on his or her behalf, as long as the family member is not an employer.

2. Can clerical or administrative staff campaign?

As to electioneering activities by clerical or administrative staff who are also members, the following guidelines apply:

- As a matter of federal labor law, appointed Local Union employees, who are also members and whose work responsibilities include confidential or policy-related duties may be dismissed from employment for engaging in political activity and the Local Union as their employer may choose to prohibit them from doing so. Put another way, while members have the right as members to engage in political activity without threat to their membership status, Local Unions are free to adopt a policy which precludes appointed staff having policy or confidential responsibilities from such activity regardless of membership status; violation of such a policy then, will result in loss of employment. Therefore, to reduce the risk that an election will be overturned, the Local Union may wish to adopt a rule preventing such office employees from campaigning activity. In any event, office staff should never use union time or resources (such as the office copier, business telephone, etc.) to campaign;
- It is strongly recommended that legal counsel be sought in connection with the termination or discipline of any employee, particularly as to issues which may arise under state law or a collective-bargaining agreement;

- If office staff/dispatchers are permitted to campaign (on their own time), the leadership must be careful to dispel any implication among voters that their future referral rights may be impacted unless they support that candidate or slate. In addition, such employees can never be coerced into campaigning upon threat, whether implicit or explicit, that their job will be adversely affected.
- Local Unions should be cautioned, therefore, that if clerical employees do campaign and if a protest is filed, their actions may be subject to careful scrutiny by the SEO.

2. Are candidates allowed to copy the membership list?

The right to inspect does not include the right to copy the membership list. If one candidate is allowed to copy the list, however, the other candidates must be informed of their right to copy the list. 29 C.F.R. § 452.71. See In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998) and In the Matter of Local 343, IHO Order and Memorandum, 98-54P (September 17, 1998).

3. Can candidates use their vacation time to campaign?

Yes. In the Matter of Local 652, IHO Order and Memorandum, 00-23P (June 23, 2000). CAUTION – Incumbents' vacation time must have been determined along with other compensation at the meeting called prior to nominations of the preceding election.

SECTION 2: DISTRIBUTING CAMPAIGN LITERATURE

Federal law establishes certain campaign rights for candidates in Local Union officer elections, including the right to have campaign literature distributed to the membership by the Local Union at the candidate's expense. The Local 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. As a Judge of Election, you 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

- ❑ Upon the reasonable request of a candidate, the Local Union must distribute to the membership his or her campaign literature. Distribution is to be made at the candidate's expense. Distribution is customarily to be made by mail.
- ❑ Federal law does not define "reasonable request". Try to comply with all requests to the extent possible, however, since any refusal might later be determined to have been unreasonable. Treat each candidate equally with respect to the cost of distributing campaign literature. There is no requirement that the Local Union distribute literature free of charge, but if distribution is made without charge, all other candidates should be notified that they are also entitled to have their literature distributed without

charge.

According to Federal labor law, a person does not have to be formally nominated in order to be a "bona fide candidate" entitled to distribute campaign literature. Any qualified member seeking to be nominated and elected is considered to be a "bona fide candidate." The Local Union must distribute campaign literature on behalf of a "bona fide" candidate even if the Local Union rule prohibits campaign mailings prior to nominations. 29 C.F.R. § 452.80.

- The Local Union may not regulate the content or review campaign literature prior to distribution. 29 C.F.R. § 452.70. Even if the literature contains derogatory and libelous remarks about other candidates, the Local Union must mail it as it would any other campaign literature.
- The Local Union must honor requests for distribution to only a portion of the membership if such partial distribution is feasible. 29 C.F.R. § 452.68. For example, if a candidate requests distribution of literature to retirees only.
- Lack of adequate staff is no excuse for refusing to distribute campaign literature. If necessary, the Local Union must temporarily employ additional staff or contract the job to an outside mailing firm. Any additional expenses incurred as a result of such measures can be charged to the candidate(s) who made the request. Candidates may be required to pay in advance the estimated costs of distribution(s), as long as such requirement is applied uniformly. 29 C.F.R. § 452.69.
- The Local Union may not limit the number of mailings which a candidate is permitted to make.

SUGGESTIONS

- Ask current and past officers how the Local Union handled requests to distribute literature in the past, and if any problems occurred.
- Make decisions in advance with regard to distribution issues such as cost, availability of staff, arranging for temporary employees or a professional mailing service.
- Notify all candidates in advance of the procedure to be used for mailing campaign literature. Promptly report to all candidates any changes which may occur.
- Ask that campaign literature be submitted in envelopes which are already stuffed, sealed and stamped with proper postage. This way, the Judges of Election need only print and affix address labels to each envelope.
- Establish a cut-off date for generating a membership list for the purpose of mailings and use that same list for all candidates. If that list is later updated, you must update the mailing for all candidates. To that end, you may wish to refer to "Updating Your Union's Membership Mailing List." (Appendix N) (OLMS, October, 2002).

- Send each candidate a sample ballot in advance of printing in order to give them an opportunity to complain and the Judges of Election an opportunity to correct the ballot.
- In determining whether a piece of literature is protected “campaign” literature, be mindful of “tone, timing and content.” See, In the Matter of Local 270, SEO Order, 03-SEO-45 (August 22, 2003) (political letters written months before nominations could be construed as “campaign literature” where the members were acting like (and were thus “bona fide”) candidates.

FREQUENTLY ASKED QUESTIONS

1. Can candidates use sample ballots as part of their campaign literature?

Yes, even if the sample ballots look very much like the ballots that will actually be used. In the Matter of Local 1098, IHO Order and Memorandum, 97-15P (February 12, 1998); In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998) (where a mock ballot was distributed), and In the Matter of Local 942, IHO Order and Memorandum, 96-19P (October 25, 1996) (where a union logo used in a mailing was found to give the impression of sponsorship).

SECTION 3: INSPECTING THE MEMBERSHIP LIST

REQUIREMENTS

- All candidates have the right to inspect a list of members (and their addresses) subject to a collective bargaining agreement which requires Union membership as a condition of employment. LMRDA Section 401(c).
- Even if membership is not required as a condition of employment, the Local Union must allow inspection of its membership list under federal law. If the Local Union decides to do so, it must treat all candidates equally and notify them of the decision to allow inspection. See 29 C.F.R. § 452.71(b).
- The right to inspect the membership list is limited to one time within 30 days before the election or 30 days before the mailing of ballots in a mail ballot election. 29 C.F.R. § 452.71.
- A "bona fide candidate" who is seeking to be nominated to run for office is entitled to the opportunity to inspect the membership list once within 30 days before the election.
- The membership list must be maintained at the Local Union's principal office and need not be available for inspection at other places, such as satellite offices or work locations of members. LMRDA Section 401(c).

- ❑ The right of inspection does not include the right to copy the list, but does include the right to compare it with a personal list of members. 29 C.F.R. § 452.71(a).
- ❑ If one candidate is permitted to copy the membership list, the Local Union must inform all candidates of the availability of the list for copying and give the same privilege to all candidates who request it. 29 C.F.R. § 452.71(b). In the Matter of LIUNA Local 50, IHO Order and Memorandum, 95-13P (September 19, 1995).

SUGGESTIONS

- Discuss in advance with the official responsible for the membership list where, when, and how it will be made available for inspection and to whom requests for inspection should be directed.
- Notify the candidates in advance of the procedure to be followed in inspecting membership lists.

FREQUENTLY ASKED QUESTIONS

1. Is a Local Union required to comply with a candidate's request for a list of contractors' names and job locations?

No, there is no such requirement in the ULUC or federal law. In the Matter of LIUNA Local 74, IHO Order and Memorandum, 95-10P (December 27, 1995). If one candidate is allowed to inspect or copy a list of employers and/or other job locations, however, then all other candidates must be notified and provided with the same opportunity. Beware of incumbent officers using a list created by their field representatives. If they do so, a list should be made available to all candidates in order to avoid giving the incumbent an unfair advantage. In addition, LMRDA Section 104 provides that a member is entitled to review all collective bargaining agreements to which the Local Union is a party.

2. Is a candidate entitled to use a "personal" mailing list which was created or obtained as a result of the candidate (or a supporter) serving as an officer or employee of the Local Union?

Yes, provided that all other candidates are notified and provided with a copy of the membership list.

SECTION 4: UNION AND EMPLOYER FUNDS

Federal law strictly prohibits the use of Union and employer funds to promote the candidacy of any person in a Local Union officer election. This prohibition was adopted to prevent a current officer from being able to use the Local 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 Local Union election. Unfortunately, the use of Union or employer funds is a relatively common problem in Local Union officer elections. Candidates, Local Union officers, and employers sometimes commit unintentional violations because

they simply do not know the extent of the restriction. The challenge is particularly great for you, as a Judge of Election because you do not control access to the funds of either the Local Union or the employer, but must still conduct an election in which no such funds are used. Therefore, advise all candidates, officers, and employers of the restriction and be alert throughout the election process for any improper use of funds.

REQUIREMENTS

- ❑ The term "Local Union funds" applies to all monies received by the Local Union by way of dues, assessment or similar levy. LMRDA Section 401(g).
- ❑ The terms "Union" and "employer" apply to any Union and any employer, not just the Local Union conducting the election or an employer of the Local Union's members. 29 C.F.R. §§ 452.73(b) and 452.78(b). For example, a Local Union in one county cannot provide campaign funding for a candidate in a Local Union election in a neighboring county. In addition, a Local Union not affiliated with LIUNA cannot provide campaign funding for a candidate in a LIUNA-affiliated Local Union.
- ❑ The Local Union or employer must not contribute money or anything of value to promote the candidacy of any individual or slate of candidates in a Local Union election. LMRDA Section 401(g). The prohibition is not limited to financial contributions; for example, use of an employer's facilities, equipment or supplies is included in this prohibition.
- ❑ The prohibition against Union and employer funds applies to direct expenditures from the Union or employer as well as indirect expenditures, including, but not limited to:
 - Campaigning on time paid for by the Union or employer;
 - Use of Union or employer owned or leased equipment such as telephones, fax machines, and copy machines;
 - Use of Union vehicle for campaign purposes falls within the prohibited use of union equipment, In the Matter of Local 334, SEO Order and Memorandum, 02-SEO-14, 15, 16, 17 (July 17, 2002);
 - Use of Union or 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 or employer or property facilities even after hours, In the Matter of Local Union 67, IHO Order and Memorandum, 95-16P (October 4, 1995);

- Printing articles which support or criticize an individual's candidacy in a Union newspaper or other publication, including a letter to the editor which supports or criticizes any candidate; and
- Giving free services or special discounts to a candidate customer such as printing, photocopying, etc.
- ☐ If you become aware of any improper campaign funding, require that the candidate reimburse the Union or employer that supplied the improper funding.
- ☐ If union facilities are available for rental for a campaign function, advise all candidates and be sure that the candidates pay for the use of space.

SUGGESTIONS

- Advise all candidates of the foregoing prohibitions. Consider giving candidates copies of this portion of the Election Guide.
- A Local Union may also adopt additional rules governing contributions to campaign funds, such as prohibiting contributions from any person who is not a member of the union.

FREQUENTLY ASKED QUESTIONS

1. Is it still a violation if a candidate uses Union or employer funds without the knowledge of the Union or employer? (e.g., if the candidate makes copies on the Union's copy machine after hours).

The use of Union or employer funds is a violation of Federal law even if Union officials or the employer do not know about or approve of the use. Thus, if a candidate uses a copy machine after hours, it is still a violation of this prohibition.

2. Is it always a violation if the incumbent officer visits a jobsite during the election season?

Any campaigning by Local Union officers that is "incidental" to Local Union business is not a violation of law. 29 C.F.R. § 452.76. For example, if an incumbent Business Manager while wearing a campaign button shakes hands with members while visiting a work site on official business, he or she has not violated the law.

NOTE: It is the contractor's prerogative to permit non-employees onto the job site. It may be improper if one candidate is permitted onto a job site and not the others.

3. Is it always a violation to use the union logo on campaign materials?

Unlike the use of union letterhead, (i.e., union funds), use of the union logo for campaign purposes is not strictly prohibited by external federal labor law. However, due to the significant risk that such use may create the improper appearance of International or Local Union sponsorship of the candidate, this practice should be avoided. In the Matter of Local 225, IHO Order and Memorandum, 00-30P (June 28, 2000); (election overturned where union logo was used on both campaign flyers and tee shirts in close election); In the Matter of Local 942, IHO Order and Memorandum, 96-19P (October 25, 1996). On the other hand, the SEO and IHO have ruled that certain logos are permissible. In the Matter of Local 1, SEO Order, Nos. 07-SEO-26 and 07-SEO-27, (June 7, 2007). (Sticker on return address portion of campaign mailing containing a star with “Local One” printed on it surrounded by “re-elect” and candidate’s name could not be mistaken as an endorsement by LIUNA or Local 1). In the Matter of Local 81, IHO Order and Memorandum, 00-29P (September 27, 2000) (Special logo designed for campaign purposes containing drawing of worker with jackhammer dissimilar to LIUNA logo deemed not a violation). In the Matter of Local 270, Memorandum Regarding Reconsideration, 99-53P (May 26, 2000); IHO Order and Memorandum, 99-53P (April 19, 2000) (Use of “Union Yes” logo surrounded by the words “Laborers’ International Union of North America” was not a violation).

CHAPTER SIX

THE RIGHT TO VOTE

The opportunity to cast a secret ballot in an officer election is the most fundamental right guaranteed by the LMRDA to all Local Union members in good standing. Your responsibility as a Judge of Election 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, you 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 or conduct the election by mail in order to provide all members a reasonable opportunity to vote.

REQUIREMENTS

- ❑ The right to vote in free, fair, and honest elections is guaranteed by the Ethical Practices Code. EPC, Democratic Practices, Section 1 and by applicable law.
- ❑ Any member in good standing is eligible to vote. ULUC Article III, Section 1(h); ULUC Article VI, Section 3(d). A member in "good standing" is one who is not deemed suspended at the time of the election and is current in the payment of dues and other uniformly required financial obligations to the Local Union. When determining whether a member is "current in the payment of dues, take note of ULUC, Article VIII, Section 4 which allows for a 60 day grace period before the member is deemed suspended by the International Union.
- ❑ In order to vote, a member must be in good standing on the membership rolls of both the Local Union and the International Union. If a Local Union anticipates readmissions or new initiations and wishes to facilitate the voting rights of such members, it may make arrangements directly with the Membership Accounting Department for immediate notice to the International Union. Members should be advised of any closing date for readmissions or initiations as it applies to voter eligibility.
- ❑ A member is not qualified to vote if he or she is not current in the payment of his dues, meaning the member is more than two months behind in the payment of his or her dues. ULUC Article VI, Section 3(d).
- ❑ A member in good standing whose dues have been checked off by the employer may not be disqualified because of any delay or failure by the employer to send the dues to the Local Union. 29 C.F.R. § 452.87.
- ❑ An unemployed member who continues to actively seek work in accordance with the Local Union's hiring hall/referral rules cannot be denied the right to vote so long as he or she remains current in the payment of dues. 29 C.F.R. §§ 452.86 and 452.92.
- ❑ A member who works only part time but pays the required dues cannot be denied the right to vote.

- ❑ A member suspended for dues delinquency beyond sixty (60) days and who is properly reinstated by the payment of back dues and fees and thereby regains good standing status is entitled to vote. 29 C.F.R. § 452.88.
- ❑ Apprentices shall have the same right to vote as other members. ULUC Article III, Section 4(a).

SUGGESTIONS

- If a Local Union knows in advance that a substantial number of members will not be able to exercise their right to vote in person, mail-in ballots or other means of voting must be made available. 29 C.F.R. § 452.95. In that event, a request for a Constitutional variance must be sought from the General President.
- A complete, accurate list of eligible voters will save time at the polls, result in fewer challenged ballots, minimize confrontations with voters and watchers, and help prevent challenges to the election. Make sure that the list is as up-to-date as possible; *i.e.*, that new members have been added, deceased or suspended members have been deleted, etc. See, “Updating Your Union’s Membership Mailing List.” (Appendix N) (OLMS, October, 2002).
- If a member's name is not on the voter eligibility list or a question arises about a person's eligibility on election day, instruct the member to cast a challenged ballot. (There are more guidelines on voiding ballots in Appendix F to this Guide.) It is always better to allow a person to cast 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.

FREQUENTLY ASKED QUESTIONS

1. If a member on dues checkoff is laid off, does this affect his good standing?

Any member who has no earnings from which dues can be withheld is responsible for paying dues directly to the Local Union in order to remain in good standing and remain eligible to vote. This requirement must be uniformly applied.

2. Can members who only work at the calling a few months out of the year vote in Local Union elections?

Yes. As long as the member is current in the payment of dues and has not been suspended, he or she is entitled to vote.

3. Can a retired member vote in Local Union elections?

Yes, so long as the retiree is current in payment of dues and has not been suspended. Note that a retiree is entitled to retain good standing for voting purposes even though he or she pays reduced dues.

4. Can members who own or manage a construction company vote in Local Union officer elections?

Yes. Assuming the other requirements to vote are met, contractors and supervisors are eligible to vote, but ineligible to run for office.

5. If a member has transferred into the Local Union from another LIUNA affiliate, can he or she vote in the next election?

Yes, but only if he or she has been a member in good standing of the new Local Union for three months. IUC, Article XXI, Section 5.

6. What about merged Local Union members?

In the case of a merger of two Local Unions, continuous good standing membership in the former Local Union satisfies the continuous good standing requirement in ULUC, Article V, Section 1.

7. Are there voting restrictions placed on members of newly chartered Local Unions?

No. For Local Unions who have been chartered for a period of less than two years at the time of the election, all members in good standing may vote.

THE ELECTION

SECTION 1: THE NOTICE OF ELECTION

Federal law requires that **all members** (not just members eligible to vote) be **notified** of an officer election including the date, time, and place that the voting will occur. This may prove to be more difficult than you anticipate if your Local Union's membership list does not contain up-to-date addresses. Therefore, do not wait until the last minute to begin updating the membership address list. See, "Updating Your Union's Membership Mailing List." (Appendix N) (OLMS, October, 2002).

REQUIREMENTS

- ❑ The Secretary-Treasurer must mail a written notice of election to each member in good standing, at his or her last known address. The notice must set forth the date, time, and place of the election and the offices and positions to be filled, including delegate(s) to the District Council (if applicable). ULUC Article VI, Section 2(j).
- ❑ The Notice of Election must be mailed at least fifteen days prior to the date of the election. ULUC Article VI, Section 2(j).
- ❑ To determine the fifteen day mailing period, do not count the day the notices are mailed, but count the day of the election. 29 C.F.R. § 452.99. For example, if the election is to be held on June 20, the election notice must be mailed no later than June 5.
- ❑ A reasonable effort to update the membership address list must be made prior to mailing the election notice.

SUGGESTIONS

- Obtain a copy of the notice of election used for the Local Union's most recent election. If that notice appears to be in order, follow the same format.
- Provide in the notice any relevant information about voter eligibility, identification procedures at the polls, availability of mail-in ballots (if applicable), and any new election procedures. If a candidates' forum will be held sometime before the election, the notice should indicate this and the time and place of such forum.
- If a substantial number of the Local Union's members are non-English speaking, include in the notice a translation of all the information in the appropriate foreign language.
- Mail the notices by first class mail to ensure that members receive the notices far enough in advance of the election so they can make arrangements to get to the polling place.

- If any election notices are returned undelivered, make a reasonable effort to obtain accurate addresses and re-mail the notices promptly.
- Keep an accurate list of all notices which were returned to the Local Union (or keep actual notices which were returned).
- In addition to the required mailing, use other methods of notifying members, such as distribution of notices at work sites, and posting notices on Local Union bulletin boards.
- As with all records of the election process, keep a copy of the election notice for at least one year after the election and keep a record of the mailing date.
- Use a separate P.O. Box as the return address for all notices so the returned envelopes do not get mingled with the regular mail of the Local Union.

SECTION 2: BALLOTS

As a Judge of Election, you will be confronted by a number of difficult ballot-related issues throughout the election process. Such issues include, but are not limited to 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, safeguarding of the ballots and accounting for all of the ballots printed.

REQUIREMENTS

A. Preparing the Ballot

- The Judges of Election prepare the official ballot. ULUC Article VI, Section 2(g). In doing so, consult with the Recording Secretary and obtain from him or her the list of candidates for each office or elective position. The official ballot must be based on this information, prepared pursuant to this data, with the names of the candidates for the offices and positions to be filled, including candidates for District Council Delegate(s) (if applicable), * listed in the order in which they were nominated. ULUC Article VI, Section 2(g). As stated earlier, remember to list the Business Manager as the Business Manager-Delegate, or Business Manager-Delegate-Delegate to the Convention, if the LIUNA National Convention would occur during that Business Manager's term.
- In preparing the election ballot, the Judges of Election must:
 - (a) consult with the Recording Secretary and obtain from him or her the list of candidates for each elective position or office;
 - (b) arrange for the ballot to be printed based upon the above list with the names of the candidates listed in the order in which they were nominated;
 - (c) consult with the Secretary-Treasurer to determine whether printed ballots or voting machines are used. ULUC Article VI, Section 2(h); and

* See, Uniform Local District Council Constitution, Article IV, Section 3, page 115.

- (d) order the required number of ballots or make necessary arrangements for voting machine(s).
- Once you have declared a nominee eligible to run, the nominee cannot be stricken from the ballot for any reason, including the unavailability or unwillingness of the nominee to serve in office. ULUC Article VI, Section 2(g).
- Instructions on the ballot should clearly state the manner in which members should mark their ballots; for example, "Mark an X in the box next to the names of the candidates of your choice." The ballot should also indicate the maximum number of votes allowed for each office, for example, "Auditor -- vote for no more than three."
- Candidates may be listed on the ballot according to affiliation with a particular slate; however, a voter must be able to choose among individual candidates. To avoid any misunderstandings in this regard, the voting instructions should specifically inform the voter that he or she need not vote for an entire slate. 29 C.F.R. § 452.112.

B. Safeguarding and Accounting for the Ballots

- Consult with the Local Union's Secretary-Treasurer to determine the number of official ballots to be printed, or the number of voting machines needed, if voting machines are to be used. Order the required number of ballots or make the arrangements for voting machines. ULUC Article VI, Section 2(h).
- Whether printed ballots or voting machines are used, they must be in such form as to protect and insure the secrecy of the vote of the member. ULUC Article VI, Section 2(h).
- The official ballots, once printed, must remain in the custody of the Judges of Election until the day of the election. ULUC Article VI, Section 2(i).
- Be sure that there is no post-voting device by which it can be determined how a particular member voted. (In the Matter of Local Union 646, IHO Order and Memorandum, 95-19P (December 1, 1995), citing Bachowski v. Brennan). An example of how secrecy could be compromised is by printing numbered ballots, and recording which ballot number each member receives. Although this might seem harmless, it would give the appearance of a possible violation of the secret ballot requirement. In the Matter of Local 724, IHO Order and Memorandum, 98-53P (September 2, 1998) where a Judge of Election ripped off stub from ballot in such a way that he could view the votes, the Independent Hearing Officer found it "tainted the atmosphere and undermined the integrity of the election.")

- ❑ Account for all ballots printed, even unused ballots. Adopt adequate controls and safeguards 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. For example, if you purchase 500 ballots and use 350, and 50 are returned, and 50 are improperly marked, you should be aware of exactly how many ballots are unused (100) and every ballot should be accounted for.
- ❑ All of the ballots cast and all of the remainder of the unused ballots, the tally sheet, and the Membership Voting Register must be gathered and wrapped in a package which must be sealed and signed by the Judges of Election. The Judges of Election shall retain custody of this package until the meeting when they make their report, at which time they shall surrender the records to the newly elected Secretary-Treasurer. ULUC Article VI, Section 3(k).
- ❑ These records shall be kept by the Local Union for at least one year following the election. LMRDA Section 401(e).

SUGGESTIONS

- On the face of the ballot or on a sign conspicuously posted at the polling place, inform voters that any identifying marks placed on the ballot will result in the ballots being voided.
- Clearly state on the ballot that the winning candidate for the office of Business Manager automatically becomes a delegate to the District Council.
- Provide adequate voting instructions to any non-English speaking members; for example, arrange to include a translation of the instructions on the ballot in the appropriate foreign language.
- Acquire ballots from an outside source, such as a printer, instead of using the Local Union's copy machine to make them. Ask the printer to provide an official count of the number of ballots printed.
- If voting machines are used, check that they are operating properly, that candidates are listed correctly, and 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 printed should be equal to the total number of eligible voters plus about 5 percent. Extra ballots may be necessary if voters spoil their ballots and need replacements. On the other hand, having too many extra ballots printed makes it more difficult to safeguard and account for all ballots.

- Avoid using serially numbered-ballots. If this cannot be avoided, advise voters to remove the stubs before depositing the marked ballots in the ballot box in order to preserve voter secrecy. The mere knowledge by voters that others have or may have the opportunity to determine how one has voted undermines the purpose of the secret ballot. See In the Matter of Local 429, SEO Order, 07-SEO-40, (June 18, 2007) (Election overturned where Election Judges numbered the ballots even though there was no evidence or allegation{ XE "allegation" } of bad faith).
- Post a blank sample ballot (which is clearly marked "Sample Ballot") at the entrance to the polls to familiarize the voters with the ballot format and the candidates for each office.
- Prepare materials prior to the election which may be necessary for handling ballots which are challenged by watchers or your fellow Judges of Election. 29 C.F.R. § 452.97(b). (See Guidelines for Voiding Ballots in the Appendix to this Guide).

FREQUENTLY ASKED QUESTIONS

1. If a candidate is running unopposed for a certain office, must that candidate and office have to be listed on the ballot?

No. If there is no contest for any office and the candidates for such offices are found properly qualified, the Judges of Election shall certify to the May meeting that there is no need for a secret ballot election, and the nominees shall be declared duly elected. Thus, if there is only one candidate for each office, there will be no need for a secret ballot election (ULUC Article VI, Section 2(e)). Although it is not required, placing the unopposed names on the ballot would promote the democratic process by giving the membership a more informed vote.

2. May a candidate request that his or her nickname appear on the ballot?

Yes. In many Local Unions, a member is known only by his/her nickname. For example, if candidate John Smith is familiarly known as "Papa", he can request that his name appear on the ballot as "Papa" Smith. Of course, such requests should not be granted if the requesting candidate is obviously just trying to create confusion on the ballot. In the Matter of Local 724, IHO Order and Memorandum, 98-53P (September 2, 1998) (stating that failure to include a nickname could affect the outcome of the election); In the Matter of Local 220, IHO Order and Memorandum, 96-72P (November 22, 1996) (finding that the failure to include a nickname on the ballot did not substantially affect the outcome of the election).

3. If candidates must be listed in the order in which they are nominated, how is a slate of candidates identified?

List the candidates' slate affiliation in parentheses after each candidates' name. For example, assume a Local Union has an election where some candidates are running as part of a slate, while others are not. The following example could be a portion of the ballot. For each office, the candidates are listed in the order in which they were nominated. The ballot should clearly state that voters do not have to vote by slate or party. For example:

Business Manager-Delegate:

___ Candidate A ("Reform Slate")

___ Candidate B ("Progressive Team")

___ Candidate C

Secretary-Treasurer:

___ Candidate D

___ Candidate E ("Progressive Team")

___ Candidate F ("Reform Slate")

SECTION 3: THE POLLING PLACE

REQUIREMENTS

- The Judges of Election must not only make arrangements for balloting in secret but must also insure that members actually use the secret balloting facilities provided. The SEO has determined that use of tables in an open area instead of voting booths or physical partitions to assure secrecy of the ballot, where members sat at the same tables to vote, is a violation of the secret ballot requirement. In the Matter of Local 429 (Raymond A. Herbert), SEO Order, 04-SEO-49 September 29, 2004; See also, In the Matter of Local 483, SEO Order, 05-SEO-21 (September 6, 2005).
- The only people allowed in the voting area during an election are the Judges of Election, the Secretary-Treasurer and duly designated Watchers, unless a motion allowing other members is approved at a prior meeting. ULUC, Article VI, Section 3(a) & (c). See, e.g., In the Matter of Local 791, SEO Order, 05-SEO-13 (August 19, 2005) (election overturned where results were exceptionally close and incumbent officer remained in the voting area long after casting his own vote).

- ❑ Also insure that no campaigning occurs inside the polling area and that order is maintained at the polls at all times. Check the polls periodically to insure that voters have not left campaign material in the voting area. 29 C.F.R. § 452.111.
- ❑ Do not wear campaign buttons, stickers, or other types of campaign apparel in the polling area. This applies to watchers as well. Voters, however, may wear such items in the polling place during the time necessary to cast their votes.
- ❑ Before voting begins, open the ballot box in the presence of appointed Watchers to make sure that it is empty, and then seal or lock the box until the ballot tally begins. (For more information on Watchers, see Section 4 of this Chapter.)
- ❑ Strictly follow the polling hours listed in the election notice, but permit any members waiting in line at closing time to vote.
- ❑ Ask each voter to present identification, check the voter's eligibility, and mark the voter's name off the eligibility list. Each voter should sign a voter register before receiving a ballot. These procedures will create an official record of who voted and help prevent the possibility of a member voting more than once.
- ❑ If there is more than one polling place, establish a system to prevent a person from voting at more than one polling place. For example, prepare a separate voter eligibility list for each polling site, with each member's name appearing on only one list. If work sites are being used as polling places, advise in the Election Notice that members must vote at their normal work site or they will be required to vote a challenged ballot.

SUGGESTIONS

- Carefully plan the arrangement of the inside of the polling place to achieve a logical and smooth flow of voters during the voting process.
- Arrive at the polling place at least one hour before the start of voting so you have enough time to set up supplies and equipment.
- Have adequate backup records such as dues payment information available at the polling site to verify voter eligibility if questions arise.
- Place the ballot box in a location where it can be seen by both the Judges of Election and Watchers at all times.
- Ask appointed Watchers to arrive before the polls open so you can explain the procedures to be used and answer any questions.

- If a voter appears whose name has already been marked off the list, examine the names near the voter's name on the eligibility list to see if an obvious explanation can be found. For example, if Joe Jones appears to vote, but his name has already been checked off, you may remember that John Jones has voted. If John Jones's name is not checked off, the mistake is obvious and Joe Jones should be allowed to vote. If no explanation is found, however, you should direct the voter to cast a challenged ballot.
- Void the ballot of any member who refuses to vote in secret. Usually the threat of this action will result in the member following directions.
- Maintain the secrecy of any spoiled ballot by folding it in half, writing "spoiled" on the back, and placing it in a separate envelope for spoiled ballots. Be sure to account for spoiled ballots at the completion of the ballot tally.
- Enforce a "no loitering" rule and establish an easy exit route for members who have already voted. Enforcing this rule uniformly from the outset will greatly reduce confusion at the polls.
- Wear "Judge of Election" badges or some other identification so that voters know to whom they should direct questions or problems.
- At least one Judge of Election should be present at the polls at all times. Schedule meal breaks during times when voting is slow.
- Make arrangements so that physically disabled members are able to vote in secret.
- Although the incumbent Secretary-Treasurer is permitted to be in the voting area for the purpose of determining whether members are current in the payment of dues and entitled to vote, be cautioned that the Secretary-Treasurer should not take an overly active role. In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998) and In the Matter of Local 292, IHO Order and Memorandum, 98-40P (July 24, 1998), where the election was questioned because the Secretary-Treasurer was in possession of ballot box.
- If a significant portion of the membership does not speak English, arrange that an interpreter be available in the appropriate second language.
- Designate one Judge of Election to deal with any news media inquiries.

FREQUENTLY ASKED QUESTIONS

1. Are candidates and their supporters allowed to campaign outside the polling place?

Yes. There is no prohibition on campaigning outside the polling place, such as passing out leaflets in the parking lot on election day, unless the Local Union has

previously instituted a rule to the contrary. In the Matter of LIUNA Local 247, IHO Order and Memorandum, 95-07P (July 27, 1995). Some Local Unions do choose to adopt a broad rule which prohibits any campaigning outside the polling place. As with all rules, such rules must be applied uniformly to all candidates. Inform candidates early on whether or not campaigning will be allowed outside the polling place. Otherwise, one group might assume it is allowed, while another group assumes it is not, causing an unfair situation.

2. If a Local Union has a substantial number of members who do not speak English, can the Judges of Election translate information on the ballots and other written instructions?

Yes. The use of a Judge of Election to assist non-English speaking voters is appropriate provided that he or she translates the ballots correctly and gives impartial instructions. In the Matter of Local Union 1075, IHO Order and Memorandum, 95-18P (September 28, 1995). Of course, you must be very careful to remain completely impartial throughout the process. A better choice may be to use printed translations on the ballot itself.

3. What is the role of the incumbent Secretary-Treasurer during the election?

The incumbent Secretary-Treasurer is permitted to be in the voting area during the election in order to assist the Judges of Election in determining whether a voting member is current in his or her dues and entitled to vote. ULUC, Article VI, Section 3(c) and (d). At the close of the voting, the Secretary-Treasurer should sign the Membership Voting Register together with the three (3) Judges of Election. ULUC, Article VI, Section 3(d). If voting takes place at more than one location, the incumbent Secretary-Treasurer should avoid traveling with the ballot box in his possession. See In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998) and In the Matter of Local 292, IHO Order and Memorandum, 98-40P (July 24, 1998). When the polls have closed, the Secretary-Treasurer should leave the voting area for the tallying process. ULUC, Article VI, Section 3(i).

In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998) and In the Matter of Local 292, IHO Order and Memorandum, 98-40P (July 24, 1998), (where the IHO found an appearance of impropriety because the Secretary-Treasurer was in possession of ballot box).

4. Are the Judges of Election and Secretary-Treasurer required to be in the voting area "at all times"?

No. It is understandable that a Judge of Election, at some point, will need to take a break. In the Matter of Local 1075, IHO Order and memorandum, 95-18P (September 28, 1995). The other Judges of Election must make sure coverage is sufficient at those times.

SECTION 4: WATCHERS

REQUIREMENTS

- A candidate may not be his or her own watcher.
- Each candidate may, at his own expense, designate in writing a Watcher who must be a member in good standing of the Local Union and who must, no later than the day of election, deposit such written appointment with the Judges of Election. ULUC Article VI, Section 3(b); LMRDA Section 401(c).
- The right to have a Watcher includes having one present during every phase and level of the voting, counting and tallying process, including the counting and tallying of the ballots and the totaling, recording and reporting of tally sheets. 29 C.F.R. § 452.107(a).
- If there is more than one polling place, each candidate may have a Watcher at each location. If ballots are being counted at more than one location or at more than one table at a single location, each candidate is entitled to as many Watchers as necessary to observe the actual counting of ballots. 29 C.F.R. § 452.107(a).
- Watchers may note the names of those voting so that the candidates may be able to determine whether unauthorized persons voted in the election. 29 C.F.R. § 452.107(a).
- Watchers should be positioned so that they do not compromise, or give the appearance of compromising, the secrecy of the ballot. Watchers do not have the right to count the ballots. 29 C.F.R. § 452.107(a).
- Watchers do not have the right to interfere with or disrupt the conduct of the election. Their role is limited to observing the election process, asking procedural questions, challenging the eligibility of any individual voters, and lodging protests with the Judges of Election as appropriate.
- Watchers do not have the right to count or handle the ballots in any way but must be allowed to observe the counting closely enough to verify the accuracy of the tally.
- Watchers may not wear campaign buttons or stickers, other campaign apparel, distribute literature, or engage in campaign activities inside the polling place, including conversations about candidates or the election campaign.

SUGGESTIONS

Avoid viewing watchers questions or comments as challenges to your authority or impartiality. The presence of watchers adds integrity to the election process and helps eliminate rumors and groundless accusations which sometime occur when no observers are present. Elections are less likely to be successfully challenged when observers are present.

- Explain the procedure to be used at the polling place to the Watchers well before voting starts.
- Give the Watchers every opportunity to observe all the activities of the election process, but remain firm on preventing them from interfering.
- Give each Watcher a copy of "Rules for Watchers". Appendix D, page D-1.
- Designate a location in the polling area where Watchers can monitor the voting without any disruption. Do not allow Watchers to roam the polling area. Be on the lookout for any confrontations between rival candidates.
- Invite Watchers to the voting booths and the empty ballot box before the polls open, and to accompany the ballot box if it is moved to a different location.
- Request Watchers to sign a Watcher log indicating the times they were present at a specific polling site or the tally of ballots.
- Provide "Watcher" badges for Watchers to wear while at the polls or tally site.
- Enforce rules governing Watchers' conduct uniformly. If a Watcher must be removed from the polling area or tally site for improper conduct, notify the appropriate candidate, if possible, so that he or she can get a replacement.
- Before tallying the ballots, review the counting procedures with the Watchers, including voiding rules.
- When resolving a challenged ballot, explain to Watchers the reason for each decision to count or not count a challenged ballot.
- Although not required, request watchers to sign a Ballot Tally Certification at the end of the ballot tally. Appendix L, page L-1.

FREQUENTLY ASKED QUESTIONS

1. May a candidate serve as his or her own watcher?

No. A candidate may not nominate him or herself as a watcher. In the Matter of Local 137, IHO Order and Memorandum, 98-37P (September 28, 1998). A candidate who is in the balloting area through the entire election may have the effect of intimidating voters and could give the appearance that he or she maintains control over the election.

2. May Watchers take action to assist voters?

No, because this might compromise the Watcher's role as a passive observer, and could create the perception of a conflict of interest. For example, the Watcher should not explain how to use the voting machine or enter the voting booth. In the Matter of Local Union 678, IHO Order and Memorandum, 95-09P (December 12, 1995).

3. May watchers assist the Judges of Election in their election duties?

No. For example, a Watcher should not attempt to help the Judges of Election during rush times at the polls or substitute for the Judges of Election in order to give them a "break".

SECTION 5: COUNTING BALLOTS

REQUIREMENTS

- When the closing time as prescribed has arrived, and all voters present have voted, the Secretary-Treasurer, having fulfilled his duties during the election, shall leave the voting area. ULUC Article VI, Section 3(i).
- The Judges of Election shall take possession of the ballot box, in the case where paper ballots are used, or open the voting machines, if machines are used, and proceed to count and tally the vote for each office or elective position, in the presence of the Watchers. ULUC Article VI, Section 3(i).
- Every vote on a valid ballot should be counted if the voter's intent is clear no matter what mark ("X," "■," "✓," etc.) is used to indicate the voter's choice.
- If a voter makes a mistake in voting for a position on the ballot, such as voting for too many candidates for a given office, only the vote(s) for that office should be voided (not counted).
- When the count and tally for each office have been completed, the Judges of Election shall announce the result after which they shall mark the result of the total vote for each candidate on two blank official ballots or on two official lists of candidates and certify, by their signatures, that such results are the official results of the election. One of the official lists shall be kept by the Judges of Election, for the purpose of preparing their report to the following meeting of the Local Union. The other official list must be turned over to the Secretary-Treasurer for the purpose of posting the same as the result of the election, for the information of all of the members of the Local Union. ULUC Article VI, Section 3 (i).
- The Judges of Election must count any ballot voted in such a way as to indicate fairly the intention of the voter. 29 C.F.R. § 452.116. For example, erasures or "crossouts" should not cause a vote to be voided if it is clear who the voter intended to select.

- ❑ An entire ballot may not be voided because of a mistake made in voting for one of the offices on the ballot. 29 C.F.R. § 452.116. For example, if a voter has marked more than one choice for President, but he marked the correct amount of choices for the total offices, his ballot must be counted for all offices except President.
- ❑ A ballot which contains the voter's name or other marks which provide the identity of the voter must be voided. If the ballot contains extraneous marks which do not identify the voter, then it should not be voided in the absence of a union rule to the contrary.
- ❑ No "write-in" votes shall be permitted on the day of the election. ULUC Article VI, Section 3(h).
- ❑ The candidate with the highest number of votes wins. Only valid ballots should be counted in determining whether a candidate has received a majority of votes cast. Blank and totally void ballots are excluded from the tally. Keep in mind, however, that all ballots cast in the election, including unused, sample, challenged, spoiled, and totally void ballots must be accounted for.
- ❑ In the event of a tie in the votes cast for the for any office, the decision will be made by lot from among those candidates having the tie vote. ULUC Article VI, Section 3(j).
- ❑ If the number of unresolved challenged ballots at the end of the tally could affect the outcome of any race, they must be resolved and, if determined to be valid, must be counted. Judges of Election must be careful to preserve voter secrecy of any challenged ballots.

SUGGESTIONS

- Before beginning the counting process, plan the procedure to be used in counting and tallying the ballots. Explain to the Watchers how the process will work. See Appendix E, H and I.
- Designate one Judge of Election as the final judge in deciding questions of voter intent or ballot validity to insure that are counted and voided in a uniform manner.

FREQUENTLY ASKED QUESTIONS

1. If the outcome of the race hinges on the validity of challenged ballots, what action should be taken?

The Judges of Election should make their decision on the ballots, and then make a final count and tally. They should take steps to document the reasons for their decisions. Any member who disagrees will then have to follow the process in the ULUC for protesting elections. All challenged ballots should be kept separately and maintained for a significant period of time following the election.

2. Does a candidate need to get a majority of votes to win an office?

No, the winner is whoever gets the most votes for that office.

3. Can Local Unions use counting devices, accountants, or balloting organizations to count ballots?

Yes. Hiring outside professionals might even be necessary in a large Local Union. The Judges of Election would still be the final judges of any election issues and would supervise the outside professionals.

4. Can candidates be present during the counting of ballots?

Yes, however, all candidates should be given an equal opportunity to be present during counting so as to avoid the appearance of impropriety.

In the Matter of Local 220, IHO Order and Memorandum, 96-72P(November 22, 1996).

CHAPTER EIGHT

HANDLING PROBLEMS AND COMPLAINTS

As a Judge of Election you will be confronted with a wide variety of issues during the election process. The ability to resolve disputes and provide sound advice will significantly reduce the possibility of a meritorious protest to the Special Elections Officer. Take note that the Special Elections Officer presides over and provides ruling in all election protests brought by any member, officer, or candidate for office within the Union. Before April 2001, these functions were performed by the Independent Hearing Officer. LIUNA Ethics and Disciplinary Procedure, Section 5, at p. 9.

A. **The Six Most Common Complaints:**

The OLMS has determined that the most common reasons for a challenged election are:

- use of Local Union or employer funds, facilities, equipment, or supplies to support a candidate;
- non-uniform application of candidate eligibility requirements;
- denying eligible members the right to vote or permitting ineligible persons to vote;
- lack of secret ballot;
- failure to provide adequate safeguards to insure a fair election, including failure to safeguard ballots properly; and
- failure to follow the election provisions of the Uniform Local Union Constitution.

B. **Seven Suggested Steps for Resolving Complaints**

A thorough inquiry into a complaint may be accomplished by completing the following steps:

1. Review the election complaint thoroughly and promptly to decide what information is needed to resolve the allegation{ XE "allegation" }.
2. Talk to the complaining member in order to clearly understand the allegation{ XE "allegation" } and to obtain any specific information needed.
3. Review the relevant provisions of the Uniform Local Union Constitution and the election rules.
4. Review election records, e.g., voter eligibility list or voter register.
5. Interview members and other persons, as necessary.

6. Decide if the allegation{ XE "allegation" } is true by reviewing all the information gathered by the Judges of Election and discussing the findings as a team.
7. Determine whether the allegation{ XE "allegation" }, if true, may effect the outcome of the election.

NOTE: It may not be necessary to complete each of the seven steps in order to resolve every issue. In fact, in most cases, the answer is patently obvious. What is the most important is for Judges of Election to obtain and rely on the facts, not speculation, hearsay, or rumors. Your role is that of a fact finder who must determine if an allegation{ XE "allegation" } is true.

C. **Determining Appropriate Action**

If an allegation{ XE "allegation" } has no merit, the Judges of Election need not take corrective action. Any allegation which is supported by the facts should be closely analyzed to determine the number of votes which maybe affected and the possible impact on the election results.

Many times the impact of a specific irregularity on election results is difficult to predict. Keep in mind, that a complaint can result in either a rerun of the entire election or only those races in which a violation affected the outcome of the election for a particular office.

SUGGESTIONS

- Remain impartial while gathering and analyzing information which may result in criticism of your actions as a Judge of Election.
- Keep your emotions under control; refrain from entering into arguments or debates with the complaining member.
- Remember that the right to protest the conduct of an election is guaranteed by the LIUNA Constitutions and federal law.
- Take notes and keep them along with copies of any pertinent records. These documents will assist you in resolving the issue and will substantiate your actions should a formal protest be filed with the Special Elections Officer or to the Office of Labor Management Statistics.
- Work as a team with your fellow Judges of Election to handle and resolve problems and complaints.

CHAPTER NINE

MAIL BALLOT

Although Article VI, Section 3 of the ULUC requires in-person balloting, a request for a variance to use a mail ballot may be granted if a need to do so is demonstrated to the LIUNA General President. Only the General President may grant a variance to use a mail ballot.¹ In some instances mail balloting may be required to provide remotely situated members with a reasonable opportunity to vote.² A mail ballot election requires a heightened attention to detail and procedure on the part of the Judges of Election in order to ensure that necessary safeguards are in place and all members are afforded a reasonable opportunity to vote. Unless indicated otherwise below, a mail ballot election requires adherence to the same procedures as a typical in-person election. Accordingly, this chapter should be read in conjunction with the other chapters in this [Election Guide](#).

It is important to note that a mail ballot election is not the only way to provide members who are geographically dispersed or who have unusual work schedules with a reasonable opportunity to vote. Other possible alternatives include multiple days when polls will be open or multiple polling sites. A mail ballot is only one of the methods used to ensure a reasonable opportunity to vote.³

SECTION 1: PREPARING FOR THE ELECTION

REQUIREMENTS

- In order to use a mail ballot, the Local Union must receive a variance and tolerance from the provisions of Article VI, Section of the ULUC. A written request must be submitted to the LIUNA General President, who will determine whether to grant the variance and tolerance based on the recommendation of the Regional Manager and the facts and circumstances affecting the Local Union.
- A number of factors are taken into consideration in determining whether mail balloting should be utilized, including: (1) the geographic area covered by the Local Union; (2) the number of remotely situated members; (3) whether members voluntarily locate outside the Local Union's jurisdiction; (4) whether the Local Union uses alternative voting procedures for other important Local Union referenda or elections; and (5) whether a large number of members would be unable to participate in an in-person election due to the demands of their work.⁴

¹ [In the Matter of Local 5](#), IHO Order and Memorandum, 00-12P (May 5, 2000); [In the Matter of Local 609](#), IHO Order and Memorandum, 95-15P (Sept.19, 1995).

² See [In the Matter of Local 1249](#), SEO Order, 02-SEO-22 (Aug. 28, 2002) (Alabama Local Union failed to provide its members with a reasonable opportunity to vote in light of members' lengthy work hours and extremely long commutes to reach the polls).

³ [In the Matter of Local 5](#), IHO Order and Memorandum, 00-12P (May 5, 2000).

⁴ [In The Matter of Local 366](#), SEO Order, 08-SEO-08 (May 02, 2008) ; [In the Matter of Local 1279](#), SEO Order, 02-SEO-22 (Aug. 28, 2002) (citing [McGinnis v. Local Union 710](#), 774 F.2d 196, 203 (7th Cir. 1985)).

NOTE: A variance granted to conduct a mail ballot election will not carry over to any subsequent election. A new variance must be obtained to use a mail ballot in any subsequent election.

- In preparation for a mail ballot election, as with an in-person election, the Local Union has an obligation to take reasonable steps to maintain current mailing addresses for its members.⁵ This includes making reasonable efforts to correct known invalid addresses prior to mailing the ballots.⁶ For more information on updating the Local Union's membership mailing list, see Appendix N of this Election Guide.
- For any Local Union that conducts a mail ballot election, nominations may be made by a member in good standing either in person or, if the variance so provides, by registered, certified, or express mail. The Local Union must receive the written nomination by close of business on the day of the nomination meeting.⁷ An earlier time can be set if the Local Union's nomination meeting is held earlier in the day. All mail nominations should be announced at the nomination meeting. In addition, a rule must be established for the order in which written nominations shall be announced that is equally applied among all candidates for all positions.
- The Judges of Election must arrange with postal officials for a special restricted-access post office box to be used solely for the receipt and storage of marked ballots. A second post office box should be reserved for ballots returned undelivered. Postal officials must be instructed that only the Judges of Election may pick up the marked ballots.
- The ULUC requires that candidates have at least 15 days to campaign. The campaign period is measured from the nomination meeting until the day after the ballots are mailed out which is considered the first day members may vote and return ballots.⁸ Accordingly, a Local Union must have a minimum of 14 days between its nomination meeting and the mailing of its ballots. For more on campaigning, see Chapter 5 of this Election Guide.
- In a mail ballot election, the mail ballots serve as the Local Union's notice of election and must be mailed to members no later than 15 days prior to the date when they must be mailed back in order to be counted.⁹ In some instances, the Local Union may decide that a longer voting period, such as three or four weeks is necessary.

⁵ In the Matter of Local 872, SEO Order, 03-SEO-58 (Jan. 28, 2004) (Local 872 failed in its obligation to provide members with a reasonable opportunity to vote because it was on notice that routine mailings to the membership prior to the election resulted in a significant amount of returned mail but made no efforts to update these incorrect addresses).

⁶ See Chao v. Local 54, Hotel Employees and Rest. Employees Union, 166 F. Supp.2d 109, 120 (D.N.J. 2001)

⁷ OLMS: A Guide For Election Officials.

⁸ In the Matter of Local 225, IHO Order and Memorandum, 00-30P (July 17, 2000).

⁹ 29 C.F.R. § 452.102.

SECTION 2: CONDUCTING THE ELECTION

REQUIREMENTS

- Every eligible Local Union member must be sent a mail ballot package at least 15 days prior to the ballot return deadline. Members participating in a mail ballot election are subject to the same voting eligibility requirements as members participating in an in-person election. Any member in good standing on the membership rolls of both the Local Union and the International Union is eligible to vote.¹⁰ For more on voting eligibility, see Chapter 6 of this Election Guide.
- To ensure ballot secrecy, a double envelope system is used. The Local Union must mail to each member in good standing a mail ballot package. The return address on the mail ballot package must include the return address for the post office box rented by the Judges of Election to receive undeliverable ballot packages. The following items should be included in the mail ballot package:
 - Voting instructions. For sample voting instructions, see Appendix B(1) of this Election Guide;
 - A blank ballot;
 - A small envelope printed with the words “Secret Ballot Envelope.” Voters should be advised in the voting instructions to place their marked ballot in the secret ballot envelope;
 - A larger envelope to be used by the voter to return the secret ballot envelope containing the marked ballot. This envelope should be pre-addressed to a post office box specifically designated for marked ballots and contain space for the voter to print his name and address in the upper left hand corner. This information allows the Judges of Election to determine voter eligibility without compromising ballot secrecy.
- The Judges of Election should pick up any mail ballot packages which have been returned undelivered to the post office box obtained for this purpose. They should promptly attempt to obtain accurate addresses for these members and re-mail the mail ballot packages as soon as possible. The Judges of Election must keep detailed records regarding returned ballot packages and re-mailed packages, including attempts to obtain corrected mailing information and the dates of any re-mailings.
- If a member does not receive a ballot or spoils the ballot received, he or she should contact the Judges of Election immediately and request a replacement ballot. The Judges of Election should promptly mail replacement ballots to members who personally request them, and only if the member advises that the original ballot was not received, lost, or was spoiled. The Judges of Election should mark the ballot return envelope (with an “R” for example), so that it may be identifiable as such in

¹⁰ ULUC Article III, Section 1(h); ULUC Article VI, Section 3(d).

the event a voter casts more than one ballot. The Judges of Election must keep detailed records of all requests for a replacement ballot and all replacement ballots sent.

- Members should be advised that the ballots must be returned by mail and that ballots hand-delivered to the Local Union will not be counted.
- Watchers have the right to be present when returned ballots are picked up from the post office.¹¹ Judges of Election should notify candidates in advance of the dates and time of ballot retrievals so that they can have a Watcher present if they wish.

SECTION 3: VOTE COUNT

REQUIREMENTS

- Judges of Election are responsible for securing the ballots at all times during the election process.¹² It is recommended that the Judges of Election rent a larger post office box and, when possible, leave the ballots there until the final collection time. While Judges of Election are permitted to collect returned ballots from the post office prior to the vote count, these ballots should not be stored in a location where anyone other than the Judges of Election could have access to them and should be stored in a locked ballot box.¹³ Remember the candidates should be notified in advance each time the Judges of Election retrieve ballots from the post office so that they can have a Watcher present.
- Under no circumstances should anyone other than the Judges of Election be allowed to pick up the ballots.
- At the vote count, the Judges of Election must verify that ballots were sent by members eligible to vote. This process involves checking the names on the return addresses of the envelopes against the voter eligibility list (see FAQ # 1).
- If a return envelope does not contain sufficient information to determine voter eligibility, then the ballot must be voided.
- If two ballot envelopes are received from the same voter, the Judges of Election should count the vote cast later. If the Judges of Election are unable to determine which vote was cast later, and one is a replacement ballot, the replacement ballot should be counted. If neither is a replacement ballot, both ballots must be voided.
- If there is a question about voter eligibility, the reason for the challenge should be recorded on the return envelope. If challenged ballots can be resolved easily during the count, it is sensible to do so. If not, the Judges of Election should put the challenged ballots aside to be resolved later, if necessary.

¹¹ In the Matter of Local 630, SEO Order, 09-SEO-33 (Sept. 11, 2009) (citing 29 C.F.R. § 452.107(c)).

¹² In the Matter of Local 1297, SEO Order, 05-SEO-18/20 (Dec. 22, 2005).

¹³ In the Matter of Local 630, SEO Order, 09-SEO-33 (Sept. 11, 2009).

- After voter eligibility has been established, the Judges of Election should next open the returned ballot envelopes of voters found eligible and remove the secret ballot envelopes. Retain these envelopes as part for the Local Union's records. The Judges of Election should then thoroughly mix the secret ballot envelopes. Afterwards, the Judges of Election should remove the ballots from the secret ballot envelopes. Any secret ballot envelopes or ballots bearing marks identifying the voter must be treated as void and set aside. The ballots should be thoroughly mixed before proceeding with the count.
- Void any ballots that were not in a secret ballot envelope.
- Void the entire ballot if it contains information identifying the voter.
- Void only the particular office involved if the voter's intent is not clear or if the voter has marked too many candidates for that office.
- If, after the count is complete, the vote totals are such that counting any unresolved challenged ballots would not alter the outcome of the election, it is unnecessary for the Judges of Election to resolve the challenged ballots. If the outcome of any election could be affected by unresolved challenged ballots, the Judges of Election will need to resolve a sufficient number of challenged ballots to determine the outcome of the delegate election. In resolving challenged ballots, the Judges of Election should be careful to preserve the secrecy of the vote. Thus, instead of resolving challenges one by one, the Judges of Election should do so in groups.
- Tally and announce the results. 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 return ballot envelopes, secret ballot envelopes, voter eligibility lists, tally sheets, and used and unused ballots after the counting is completed. Keep them for at least one year pursuant to federal law.
- At a later date, the Judges of Election should pick up any ballots received after the ballot return deadline. Void (but do not open) these ballots, marking the ballot envelopes – "Void – Received after Deadline." Retain these ballot envelopes with the other election records.

SUGGESTIONS

- Develop a schedule for each step of the mail ballot election (ballot printing, mailing, return deadline, and counting) which allows for adequate time to complete each phase.
- Update the Local Union's most recent membership address list to ensure that each member's address is correct. Review the Local Union's most recent mailing to all members to determine if any mail was returned undelivered. Ask members to supply current addresses if any change within the last six months. Make a list of members whose addresses are out of date and attempt to obtain updated addresses for those members. For additional guidance, see Appendix N

- of this [Election Guide](#).
- Although ballots must be sent at least 15 days prior to ballot return deadline, in some cases the Local Union may want to allow three to four weeks for members to mark and return their ballots, especially if the Local Union covers a large geographical area. Do not use a postmark date for the ballot return deadline.
 - The Judges of Election should check the post office box designated for undelivered ballots several times a week between the date the ballots are sent out and the ballot return deadline. Judges should make all reasonable efforts to re-mail undelivered ballots to the correct addresses (including double-checking the address, calling the member, calling the member's employer, etc.).
 - Retain custody of the mail ballot packages until mailing and safeguard blank ballots throughout the balloting period. Election officials must be able to account for all ballots printed. Keep a list of the names and addresses of any members who receive replacement ballots to ensure that only one ballot is counted for each member.

FREQUENTLY ASKED QUESTIONS

1. When a member goes suspended after having voted and returned his ballot but before the tally, should his ballot be counted?

It depends. The Local Union has some discretion to determine the date upon which eligibility to vote is established. For example, a Local Union may decide that eligibility will be locked in on the date that the ballots are sent out. In that case, a member's subsequent suspension would not affect his eligibility and the vote would be counted. This is the easiest procedure to administer.

The Local Union may decide, however, that eligibility to vote will be determined on the day votes are counted. In that event, a member's suspension would cause him to become ineligible and his vote would not be counted.

Whichever decision is made, the key is to determine in advance of the election which approach to follow, apply the standard consistently and ensure that all members are treated equally. One way to avoid changes to members' eligibility to vote during the election process is to mail out and count the ballots during a single per capita reporting period.

2. During which phases of a mail ballot election do candidates have a right to have Watchers present?

Candidates have a right to have Watchers present for the preparation and mailing of the ballots, their receipt by the Judges of Election, eligibility determinations, and the opening and counting of the ballots.¹⁴

The purpose of Watcher participation is to ensure that election procedures maintain

¹⁴ 29 C.F.R. § 452.107(c).

the appearance of fairness and impartiality. Watchers play a key role in protecting the integrity of the election process.¹⁵ Although not required by law, Judges of Election are also encouraged to notify candidates of the dates, times, and locations of election events where Watchers' presence is permitted.

3. Are mail ballot elections less secure than in-person elections?

No. Mail ballot elections are a lawful and well-established method of balloting.¹⁶ Whether a mail ballot or in-person election is conducted, federal law requires that unions provide adequate safeguards to ensure a fair election.¹⁷

4. May a Local require members to sign the ballot return envelope and decline to count ballots that are not sent in a signed return envelope?

Department of Labor regulations allow unions to "require members to sign the return envelope" but **only** "if the signature may be used in determining [members'] eligibility." It would be unlawful "for a union to void an otherwise valid ballot merely because a member [did not sign] his name if the union does not use the signature to determine voter eligibility."¹⁸ Thus, unless the signature on the return envelope is used to determine voter eligibility, a Local Union may not require members to sign the return ballot.¹⁹

5. Common pitfalls in mail ballot elections:

- Failure to use the double envelope system. Failure to include the secret ballot envelope, the larger return envelope, or both, compromises the integrity of the election and violates federal law.²⁰
- Insufficient time to campaign. Candidates should have at least 15 days to campaign. That period is measured from the nomination meeting until the day after the ballots are mailed out.²¹ Accordingly, a Local Union must have a minimum of 14 days between its nomination meeting and when its mail ballot packages are sent to members.
- Insufficient time to return marked ballots. The ballot return deadlines should be set as to provide ample time for members to return marked ballots (at least

¹⁵ In the Matter of Local 210, SEO Order, 07-SEO-43 (June 29, 2007).

¹⁶ In the Matter of Local 559, SEO Order, 08-SEO-10 (May 7, 2008).

¹⁷ Id. (citing generally 29 U.S.C. § 481(c)).

¹⁸ 29 C.F.R. § 452.97(c).

¹⁹ See In the Matter of Local 292, SEO Order, 01-SEO-19 (Sept. 18, 2001).

²⁰ In the Matter of Local 98, IHO Order and Memorandum, 99-54P (Mar. 24, 2000).

²¹ In the Matter of Local 225, IHO Order and Memorandum, 00-30P (July 17, 2000).

15 days from the date that ballot packages are sent out). Local Unions may wish to allow additional time for members to return their ballots in order to ensure maximum participation.

SAMPLE SCHEDULE

This sample schedule is designed to help union election officials plan for and schedule all the significant activities associated with conducting a mail ballot election. The time projections are included as recommendations only.

Date	Activity
March 30	A variance and tolerance to hold a mail ballot election is obtained from LIUNA's General President upon the recommendation of the Regional Manager.
April 15	Union membership list is updated and revised with current addresses to be used for mailing election notices and ballot packages. (6 - 8 weeks prior to the election)
April 15 – May 1	Election and campaign rules, if any, are prepared. (prior to the nomination meeting)
April 15 – May 1	Judges of Election are appointed by the Local Union's Executive Board.
May 1 – May 21	Judges of Election arrange with postal officials for two restricted-access post office boxes: one for receipt of marked ballots, the other for ballot returned undeliverable.
April 20	Nomination notices are mailed. (no less than 7 days prior to the nomination meeting)

April 28	Period begins for candidates' right to inspect the local's membership list one time. (30 days prior to the election)
May 1	Deadline for receipt of written nominations, if used. (close of business on the day of the nomination meeting)
May 1	Nomination meeting is held. (not less than 10 days and not more than 20 days prior to the regular meeting of the Local Union in May of the election year)
May 1 – May 3	Nominees appear before the Judges of Election, who determine whether each candidate is qualified to hold office.
May 7	Ballots are designed and arrangements are made with the printer. (3 weeks prior to the election)
May 15	May meeting. The membership must fix the date when mail ballots will be sent out.
May 21	Voter eligibility list is prepared.
May 21	Ballots are printed and mail ballot packages are assembled. (1 week prior to mailing ballots)
May 28	Ballot packages are mailed.
May 22 – June 18	Judges of Election intermittently pick up any ballots that are returned undelivered. They must attempt to obtain accurate addresses and remail the ballots as soon as possible.
June 18	Ballot return deadline (at least 15 days after the date ballots are mailed)
June 18	Ballots are counted and election results announced.

APPENDICES

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SAMPLE NOMINATION NOTICE APPENDIX N: UPDATING
YOUR UNION'S MEMBERSHIP MAILING LIST N-1 APPENDIX **A SAMPLE
NOMINATION NOTICE**

Sample

NOMINATION NOTICE

Heavy Highway Local 888

Nominations for the offices of President, Vice President, Recording Secretary, Secretary-Treasurer, Business Manager-Delegate-Convention Delegate, Sergeant-at-Arms, Auditors (3), Executive Board Members, and Delegate(s) to the District Council (if applicable) will be accepted from the floor at the nominations meeting at the date, time, and place indicated below. The term of office will run for three years beginning July, 2010. The Candidate elected as Business Manager-Delegate will also serve as a delegate to the District Council and a delegate to the 2011 LIUNA Convention.

Date: Wednesday, April 7, 2010

Time: 7:00 p.m.

Place: Local 888 Hall
4900 Pulaski Highway
Baltimore, Maryland 21224

As provided in the Constitution, any member who has paid dues through February, 2010 prior to 5:00 p.m. on April 7, 2010 is in good standing and eligible to nominate candidates.

A-1

APPENDIX B

SAMPLE LIUNA LOCAL CANDIDATE QUESTIONNAIRE

Name of Member: _____ Member No.: _____

Address: _____ City: _____ State/Zip or Province: _____

Phone No.: _____ Position Nominated for: _____

Date of Birth: _____ Name as you want it to appear on the ballot: _____

1. Are you current in your Union dues? Yes _____ No _____
2. Have you been in continuous good standing with the International Union and the Local Union for a period of two years immediately prior to your nomination? Yes _____ No _____
3. Are you a lawful permanent resident and lawfully employable under the laws of the United States or Canada? Yes _____ No _____

Are you able to present one of the following:

- ! Birth Certificate issued by a state, country, municipal authority or other appropriate governmental agency bearing an official seal.
- ! U.S. Passport (unexpired or expired).
- ! Alien Registration Receipt Card with photograph (“green card”).
- ! Certificate of Naturalization.
- ! Other documentation: _____

4. Are you able to read and write basic English? Yes _____ No _____

5. List all jobs held, including dates, in the last year:

6. If you have been out of work for any period during the past year, have you complied with the hiring hall or referral system rules of the Local? Yes _____ No _____

7. If you have been unable to work for any period during the past year, please explain why. If you are currently unable to work, when do you expect to return to work?

8. Are you currently collecting a pension? Yes _____ No _____

9. Have you been barred from holding Union office by LIUNA? Yes _____ No _____

10. Have you ever been convicted of a crime? Yes _____ No _____

If yes, please explain (1) the nature of the conviction(s), (2) the location where the conviction(s) occurred, (3) the date of the conviction(s), and (4) the sentence imposed:

11. Are you currently working at a job in which you exercise any of the following functions?

Please check all that apply, if any:

- You are able to hire, fire, suspend or transfer other employees.
- ! You have the ability to assign work within the company and direct the performance of that work.
- ! You are able to promote, reward, or discipline employees.
- ! You have the ability to adjust grievances of employees.
- ! You seek out and negotiate work for the company.

Are you paid by the hour, or are you a salaried employee?

Please be advised that the Local's Election Judges are using the above questions as a guide. The Judges have the right to seek additional information necessary to determine a candidate's eligibility to hold office.

I have, to the best of my ability, answered all questions honestly and truthfully.

Candidate Signature

**DO NOT WRITE BELOW THIS BOX
FOR OFFICIAL USE ONLY**

QUALIFIED

DISQUALIFIED _____

REASON FOR DISQUALIFICATION

SIGNATURE OF ELECTION JUDGE

DATE

B-

2

SAMPLE NOTICE OF ELECTION

Sample

NOTICE OF ELECTION

Local Union 888

A secret ballot election for the offices of President, Vice President, Recording Secretary, Secretary-Treasurer, Business Manager-Delegate-Convention Delegate, Sergeant-at-Arms, Auditors (3), Executive Board Members, and Delegate(s) (2) to the District Council will be conducted by Local 888 at the date, time, and place indicated below. The Candidate elected as Business Manager will also serve as a delegate to the District Council and a delegate to the 2011 LIUNA Convention.

Date: Wednesday, June 9, 2010

Time: 9:00 a.m. to 5:00 p.m.

Place: Local Union 888 Hall
4900 Pulaski Highway
Baltimore, Maryland 21224

Any member who has paid dues through April, 2010 will be eligible to vote on June 9, 2010.

VOTING PROCEDURE

- Step 1** Present identification to the Secretary-Treasurer who will determine if you are qualified to vote.
- Step 2** Sign your name and book number on the Membership Voting Register.
- Step 3** Vote by marking an **X** in the box next to the names of the candidates of your choice for each office and position on the official ballot. Do not write or sign your name anywhere on the ballot.
- Step 4** Put your ballot in the ballot box in the presence of a Judge of Election and the Watchers.

APPENDIX C(1)

SAMPLE NOTICE OF ELECTION/VOTING INSTRUCTIONS FOR MAIL BALLOT ELECTIONS

Sample
NOTICE OF ELECTION
Local Union 888

A secret ballot election for the offices of President, Vice President, Secretary-Treasurer, Recording Secretary, Business Manager-Delegate-Convention Delegate and three (3) Executive Board Members is being conducted by mail. Ballots for this election are being mailed to members on June 7, 2010. Any eligible member who has not received a ballot in the mail at home by June 16, 2010 or any member who spoils a ballot may request a new ballot by contacting Judge of Election Joe D. Man at (202) 555-1234. If you request and return another ballot, only the replacement ballot will be counted.

Instructions for Mail Voting

Please read the following instructions carefully before marking and mailing your ballot:

- Mark an "x" or place a check mark in the box next to the name of the candidates of your choice. Vote for no more than __ delegate candidates. If you vote for more than this number of delegates, your ballot will be void. Do not place your name, initials, or any other identifying information on the ballot. Ballots containing any identifying information will be voided.
- Place your marked ballot in the small envelope labeled "Secret Ballot Envelope" and seal it. Do not write on this envelope. You must use the Secret Ballot Envelope to insure that ballot secrecy is maintained. Failure to use the Secret Ballot Envelope will result in your ballot being voided when the ballots are counted. If your ballot package does not contain a Secret Ballot Envelope, you may obtain one by contacting Judge of Election Joe D. Man at (202) 555-1234.
- Insert the sealed Secret Ballot Envelope containing your marked ballot into the return envelope pre-addressed to the Local 888 Election Committee and seal it. Print your name and address in the return address space on the return ballot envelope.
- Your name on the return ballot envelope will identify you as an eligible voter. The voter identification number in the lower left corner of the return ballot envelope will be used by the Election Committee for sorting ballots and determining voter eligibility at the ballot count. Your vote will remain secret because the Secret Ballot Envelope containing your ballot will be separated from the return ballot envelope and mixed with other Secret Ballot Envelopes before it is opened and the ballot counted.
- Ballot secrecy can only be preserved if you personally mark and mail your ballot. Do not give this ballot to anyone else. Do not allow anyone else to mark or handle your ballot or see how you vote. Do not give your ballot to anyone else for mailing. Do not hand-deliver your ballot to the union office.

IMPORTANT: Mail your ballot in sufficient time for it to be received at P.O. Box 146, Washington, D.C. 20500 no later than 12:00 p.m. on July 5, 2010. Any ballot received after the deadline will be void.

APPENDIX D

SAMPLE BALLOT

Instructions: Mark an X in the box next to the names of the candidates of your choice. Only one (1) vote for each office is allowed unless otherwise indicated.

PRESIDENT

- Josephine “Joey” Mintor
- Manny Gonzalez
- Jack Roberts

VICE-PRESIDENT

- Billy Simmons
- Tammy Pinski

RECORDING SECRETARY

- Bill Palmer
- Chris Jenkins

SECRETARY-TREASURER

- Betsy Fontana
- David R. Dennis

BUSINESS MANAGER-DELEGATE-CONVENTION DELEGATE

- Jane Adkins
- Richard “Dallas” Riker

SERGEANT-AT-ARMS

- John Smith
- Jane Cooke
- Ann Jones

AUDITORS

[Vote for no more than three (3)]

- Jack Daniels
- Pam Oliver
- Linda Jones
- Paul Smith

EXECUTIVE BOARD MEMBERS

[Vote for no more than two (2)]

- Lois Lawson
- Ruth Smith
- Betty White

DISTRICT COUNCIL DELEGATE(S)

[Vote for (# of delegates Local is entitled to)*]

- Roger Ebert
- Michael White
- Jonathan Wells

* See Uniform District Council Constitution, Article IV, Section 3, page 115.

APPENDIX E

RULES FOR WATCHERS

1. Each watcher should identify himself/herself to the Judges of Election, sign the watcher log, and indicate which candidate he or she represents. A watcher should notify the Judges of Election if he or she is scheduled to be replaced later in the day by another watcher.
2. While present in the polling or tally area, each watcher should wear a badge provided by the Judges of Election clearly marked "Watcher" if requested to do so.
3. Watchers, accompanied by the Judges of Election, should inspect the voting booths (or voting machines) and the empty ballot box prior to the start of the voting.
4. Watchers must not campaign in the voting area in any way. They may not wear buttons or other campaign apparel, distribute campaign material, or engage in conversations with voters about candidates or the election campaign.
5. Watchers should remain in the area(s) approved by the Judges of Election where they are able to see the voter registration and balloting process.
6. Watchers may count the number of voters at the polling site and note their names.
7. Watchers may not roam around the voting area or disrupt the polling process in any way. They should direct any questions or report any problems directly to the Judges of Election as soon as possible so that any necessary corrective action can be taken.
8. Watchers may challenge the eligibility of any voter by clearly specifying the basis for the objection to the Judges of Election. (For example, "I challenge the eligibility of Voter X because he is a new employee who has not yet paid dues.")
9. During the tally of ballots, watchers may challenge the accuracy of the way votes are read from marked ballots and recorded on tally sheets and should state any objection to the Judges of Election as soon as possible so that any necessary corrective action can be taken.
10. Watchers may not touch or handle ballots at any time or interfere with the tally process.

APPENDIX F

GUIDELINES FOR COUNTING BALLOTS

"APPENDIX E GUIDELINES FOR COUNTING BALLOTS"

1. Prior to the day of the ballot tally, prepare the blank Tally Sheets (Appendix J), Vote Summary Sheets (Appendix K), and a Ballot Tally Certification (Appendix L).
2. Insure that supplies are available at the tally site including pencils, pens, rubber bands, staplers, tape, and a calculator(s).
3. Safeguard the used and unused ballots at all times before, during, and after the tally. If the ballot tally is scheduled for a location other than the polling site or is to begin at a later time, in the presence of watchers seal the ballot box(es) with tape, and initial across the tape. The tally ballots should begin only after all polling sites have closed.
4. Keep ballots in full view of candidate watchers at all times, but only the Judges of Election and any others counting ballots should handle the ballots.
5. Challenged ballots should be resolved as soon as possible, and prior to the completion of the tally, in order to preserve ballot secrecy. (See Guidelines for Voiding Ballots - Appendix F.)
6. Use either the "call" method or the "stack" method for the ballot tally. (See Appendices H and I). Whichever method is used, insure that the ballots are counted accurately, decisions regarding the voiding of ballots are consistent, and ballots are properly safeguarded throughout the tally process.

APPENDIX G

GUIDELINES FOR VOIDING BALLOTS

"APPENDIX F GUIDELINES FOR VOIDING BALLOTS"

In union officer elections, questions often arise at the tally of ballots concerning whether an individual vote for a particular office or an entire ballot should be voided. (See Guidelines for Counting Ballots - Appendix E). A voter may have marked more than one box for a given office, crossed out or erased a mark, or marked the ballot in such a way that his or her intent is unclear. Watchers may challenge the way the ballot is marked or the Judges of Election themselves may have questions about a voter's intent with respect to a particular office. It is the responsibility of the Judges of Election to decide whether a vote for a particular office or an entire ballot should be counted or voided.

Most importantly, the Judges of Elections' decisions regarding voter intent and voiding ballots must be uniform and consistent. To achieve this, the Judges of Election should discuss ballot voiding rules prior to the tally. Usually, one election official should be designated as the final judge in these decisions to insure that ballots are counted consistently and voided uniformly.

As a general rule, every vote on a valid ballot should be counted if the voter's intent is clear no matter what mark ("X," "■," "✓," etc.) is used to indicate his or her choice. The Judges of Election should count a vote even if the mark strays outside the box next to a candidate's name. In the absence of specific union rules, marks which do not identify the voter should not cause a ballot to be voided and erasures or "cross-outs" should not cause a vote for a particular office to be voided if the intent of the voter is clear. The Judges of Election must void a ballot in its entirety if it contains any marks which identify the voter.

To void ballots properly, OLMS recommends the following procedures:

- During the tally process, ballots which are voided in their entirety should be marked "void" on the front and initialed by the Judges of Election using a distinctive color ink pen. A brief description of the reason for voiding the ballot should be written on the back of the voided ballot. All totally void ballots should be placed in a separate envelope.
- If voter intent is not clear for any office or if too many candidates have been selected for one or more positions, the Judges of Election should void only the particular office involved by lining through the boxes for that office and marking "void" and their initials next to the position being voided.
- If a voter fails to vote for any candidate for a position, the Judges of Election should insure that no one can mark the ballot at a later time by lining through the boxes next to the candidates' names and marking "void" and their initials next to the position.
- If the Judges of Election rule on the question of voter intent for one or more positions on a ballot, they should circle the name of the candidate being awarded the vote and place their initials next to the position. This will insure that the vote will be counted for the same candidate in a recount.

The Judges of Election should recognize that decisions about voiding ballots are often close calls which require judgment and impartiality. Such decisions may affect the outcome of a given race and can become the subject of heated disputes. By establishing ballot voiding rules and procedures in advance and following these rules uniformly, the Judges of Election can minimize controversy at the ballot tally and reduce the need for recounts.

ELECTION PLANNER

This Planner is designed to help the Judges of Election plan for and schedule all the significant activities associated with conducting an officer election. The time projections noted are based on International Union 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.

Date	Activity
	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 mailed. (at least 10 days prior to the nomination meeting)
	Nomination meeting held. (4 - 6 weeks prior to the election)
	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.

APPENDIX I

CALL METHOD

The call method, used by most unions, requires three-person tally teams consisting of a “caller” and two recorders. The caller reads the votes on each ballot aloud while the recorders independently mark the votes for each candidate on tally sheets. Periodically, the two tally sheets are compared to insure that the recorders agree and the vote totals for any candidate which do not match are recounted. Step-by-step instructions for the call method follow:

1. Judges of Election should open the ballot box in the presence of watchers, remove and unfold all marked ballots, and place them in bundles of 50 or 100, numbering each bundle # 1 of __, # 2 of __, etc., to insure accuracy and provide a means of control. Any ballots voided in their entirety should be removed and set aside.
2. A recorder should sit on each side of the caller and put the ballot bundle number on a Tally Sheet (Appendix J). The caller should then place the ballots face up on the table and, beginning at the top of each ballot, read the name of each candidate who received a vote. As the name of each candidate receiving a vote is called, each recorder should place a tally mark next to that candidate’s name on a tally sheet in groups of five as illustrated below:

Fontana	++++	++++	
Dennis	++++		

3. If voter intent is unclear for any office(s) on a ballot, Judges of Election should rule on whether the vote(s) should be counted and, if so, for which candidate(s).
4. The tally team should continue counting the ballots until the bundle is completed. At that point, the tally sheets should be “closed” and the two recorders should read the number of votes credited to each candidate and compare the totals.
5. If the recorders’ vote totals do not agree for any candidate, the ballots should be recounted, but only for the position where the discrepancy occurred. This can be done by separating the ballots into two or more stacks, each representing all of the votes received by a particular candidate. Each stack should be recounted by each member of the tally team until there is agreement on the vote totals.
6. After agreement is reached on all vote totals, the tally team should sign and date the tally sheets. The bundle of ballots which corresponds to the two completed tally sheets should be wrapped inside those tally sheets and banded together.
7. The tally team should then begin a new tally sheet for another bundle of ballots and continue counting in this manner until all bundles are counted.
8. After ballots are tallied, the tally sheets should be assembled and the vote totals from each tally sheet transferred to a Vote Summary Sheet (Appendix K) where grand totals should be calculated.

9. Judges of Election should complete the Ballot Tally Certification (Appendix L) and announce the results for each office as well as the number of ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots.

Remember that the total number of ballots counted may not equal the total votes counted for a specific race since not all voters will vote for every office and ballots may be voided for certain offices.

10. After the results are announced, all tally sheets, used and unused ballots, voter registers, eligibility lists, and other election materials should be packed and sealed in boxes. All election records must be maintained for at least one year.

Using the call method is most appropriate in elections where several candidates are running for positions in which more than one candidate is being elected (such as eight candidates running for three Auditor positions). However, this method can be more time-consuming than the stack method.

APPENDIX J

STACK METHOD

The most effective way to count ballots is the stack method, a system in which two-person teams count ballots by separating them into stacks based on the votes cast for each officer position. This tally procedure is very accurate and significantly faster and more efficient than the call method. For these reasons, the stack method is recommended by OLMS. Step-by-step instructions for the stack method follow:

1. Judges of Election should open the ballot box in the presence of watchers, remove and unfold all marked ballots, and place them in bundles of 50 or 100, numbering each bundle # 1 of __, # 2 of __, etc., to insure accuracy and provide a means of control. Any ballots voided in their entirety should be removed and set aside.
2. Judges of Election should determine the first race to be counted, usually the office of President. The counting should be done by two-person teams. Each tally team should take one bundle of ballots, record the bundle number on the tally sheet, and divide the ballots into separate stacks based on the votes cast for each candidate for the office of President.
3. If voter intent is unclear for any office(s) on a ballot, Judges of Election should rule on whether the vote(s) should be counted and, if so, for which candidate(s).
4. After all the ballots in the bundle are separated, the stacks for each candidate should be counted by each team member who should also verify that the votes in each stack are all for the same candidate.

If the team members' vote totals do not agree, each stack should be recounted and the agreed-upon vote totals for each candidate entered on a tally sheet. The number of ballots voided for that office and the number of ballots which contained no vote for that office should also be noted on the tally sheet. (The total of all valid votes, voids, and no votes should equal the total number of ballots in the bundle.)

5. After all the votes for the first office are counted, the stacking procedure should be repeated by the tally team for the next office on the ballot. The ballot tally should continue until the votes are counted for each office on the in that bundle.
6. When all ballots in the bundle are counted for each office, the tally team should sign and date the tally sheet. The bundle of ballots which corresponds to the completed tally sheet should be wrapped inside the tally sheet and banded together.
7. The tally team should then begin a new tally sheet for another bundle of ballots and continue counting in this manner until all bundles are counted.
8. After ballots are tallied, the tally sheets should be assembled and the vote totals from each tally sheet transferred to a Vote Summary Sheet (Appendix K) where grand totals should be calculated.

9. Judges of Election should complete the Ballot Tally Certification (Appendix L) and announce the results for each office as well as the number of ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots.

Remember that the total number of ballots counted may not equal the total votes counted for a specific race since not all voters will vote for every office and ballots may be voided for certain offices.

10. After the results are announced, all tally sheets, used and unused ballots, voter registers, eligibility lists, and other election materials should be packed and sealed in boxes. All election records must be maintained for at least one year.

The stack method is particularly efficient in elections which have slate voting or a small number of candidates. If fewer than 500 ballots were cast, Judges of Election may choose to count all ballots at once rather than in bundles.

APPENDIX K

SAMPLE TALLY SHEET APPENDIX J **SAMPLE TALLY SHEET**

Heavy Highway Local Union 888
TALLY SHEET

BALLOT BUNDLE # _____

INDIVIDUAL VOTES

PRESIDENT	10	20	30	40	50	Total
Mintor						
Gonzalez						
Roberts						

VICE PRESIDENT	10	20	30	40	50	Total
Simmons						
Pinski						

RECORDING SECRETARY	10	20	30	40	50	Total
Fontana						
Dennis						

SECRETARY-TREASURER	10	20	30	40	50	Total
Mintor						
Gonzalez						
Roberts						

BUSINESS MANAGER-DELEGATE-CONVENTION DELEGATE	10	20	30	40	50	Total
Simmons						

Pinski						
--------	--	--	--	--	--	--

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SERGEANT-AT-ARMS	10	20	30	40	50	Total
Mintor						
Gonzalez						
Roberts						

AUDITORS(3)	10	20	30	40	50	Total
Mintor						
Gonzalez						
Roberts						
Pinski						

EXECUTIVE BOARD MEMBERS	10	20	30	40	50	Total
Fontana						
Pinski						
Jenkins						

DELEGATE(S) TO THE DISTRICT COUNCIL	10	20	30	40	50	Total
Mintor						
Gonzalez						
Roberts						

Tallied By: _____

Date: _____

APPENDIX L
SAMPLE VOTE SUMMARY APPENDIX K **SAMPLE VOTE SUMMARY**

Heavy Highway Local Union 888
 VOTE SUMMARY SHEET
 BALLOT BUNDLE RESULTS

PRESIDENT Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Mintor											
Gonzalez											
Roberts											

VICE PRESIDENT Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Simmons											
Pinski											

RECORDING SECRETARY Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Palmer											
Jenkins											

SECRETARY- TREASURER Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Fontana											
Dennis											

BUSINESS MANAGER- DELEGATE Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Palmer											

Pinski											
--------	--	--	--	--	--	--	--	--	--	--	--

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SERGEANT-AT-ARMS Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Palmer											
Jenkins											

AUDITORS(3) Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Mintor											
Gonzalez											
Roberts											
Pinski											

EXECUTIVE BOARD MEMBERS Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Gonzalez											
Jenkins											
Simmons											

DELEGATE(S) TO THE DISTRICT COUNCIL Ballot Bundle #	1	2	3	4	5	6	7	8	9	10	Total
Palmer											
Jenkins											

Compiled By: _____

Date: _____

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APPENDIX M

BALLOT TALLY CERTIFICATION

Judges of Election are responsible for providing a full accounting of the ballots cast in the election and announcing the results of the election to the membership. The sample Ballot Tally Certification at Appendix M, which includes a ballot recap and the election results, can be used to fulfill both of these purposes.

To account for all ballots cast in the election, officials should enter the number of valid ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots in the ballot recap section of the Ballot Tally Certification. Added together, these three entries should equal the total number of ballots cast in the election. Judges of Election should also enter vote totals for each candidate in the election results section, entering “none” where appropriate. Before entering the tally results, Judges of Election should double check the figures with vote totals on the tally sheets and the vote summary sheet for accuracy.

Judges of Election should sign the Ballot Tally Certification and request Watchers to sign in the appropriate spaces. Watchers are not required to sign the certification, however, if they choose not to do so.

Judges of Election may wish to post copies of the completed certification at the union hall and the work site(s), give copies to candidates, and provide a copy to union officials when making their final report on the election. The original certification should be kept by the union with the ballots and other election records for at least one year, as required by federal law.

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APPENDIX N SAMPLE BALLOT TALLY CERTIFICATION

Heavy Highway Local 888

Date of Election: _____ Tally Location: _____

The undersigned acted as Judges of Election or Watchers at the tally of the ballots cast in the above-referenced election. We certify that the ballot tally was fairly and accurately conducted, the secrecy of the ballots was maintained, and that the election results were as indicated below.

BALLOT RECAP

	<u>Number of Ballots</u>
Valid Ballots Counted:	_____
Totally Void Ballots:	_____
Unresolved Challenged Ballots:	_____
Total Ballots Cast:	=====

ELECTION RESULTS

<u>Office</u>	<u>Candidate Name</u>	<u>Number of Votes</u>
President	Josephine "Joey" Mintor	_____
	Manny Gonzalez	_____
	Jack Roberts	_____
Vice President	Bill Simmons	_____
	Tammy Pinski	_____
Recording Secretary	Jeff Barnes Jr.	_____
	Ruth Smith	_____
Secretary-Treasurer	Betsy Fontana	_____
	David R. Dennis	_____
Business Manager-Delegate- Convention Delegate	Manny Gonzalez	_____
	Chris Jenkins	_____
Sergeant-at-Arms	Jack Roberts	_____
	Betsy Fontana	_____
Auditors (3)	David R. Dennis	_____
	Josephine "Joey" Mintor	_____
	Manny Gonzales	_____
	Jeff Barnes Jr.	_____
Executive Board Members (3)	Jeff Barnes, Jr.	_____
	Lois Lawson	_____
	Ruth Smith	_____

Jane Adkins
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Delegates to the District Council (2)

Richard "Dallas" Riker
Jack Roberts
Betsy Fontana

WATCHERS

JUDGES OF ELECTION

APPENDIX O

UPDATING YOUR UNION'S MEMBERSHIP MAILING LIST

Accurate mailing lists are essential to successful organizations. Unions have a special interest in keeping their membership lists up-to-date in order to comply with the election provisions of the Labor-Management Reporting and Disclosure Act. This law requires unions to mail election notices to members at their last known home address and to comply with candidates' requests to distribute campaign literature. Unions that conduct elections by mail have an additional responsibility to ensure that membership mailing lists are complete and accurate in order to guarantee that all members receive ballots and are given the opportunity to vote.

As an initial step, union officials should compare the mailing list with membership records to ensure that the names of all members appear on the mailing list including new or transferred members as well as any members whose addresses are known to be incorrect. The union's system for recording addresses and making address changes should also be examined to make certain that address change information is entered in a timely, accurate manner. Following are additional suggestions for updating your union's mailing list:

- Post Notices at work sites, web sites, the union hall, bulletin boards, and in the union newspaper requesting members to advise the union of address changes.
- Make any scheduled mailing to members by first class mail several months before nominations so that the post office will return any undelivered mail; obtain better addresses for members whose mail was returned.
- Check listings in local telephone books and through Internet "search engines" to find updated addresses; telephone members to request new addresses.
- Contact the personnel office of employers to obtain corrected addresses.
- Seek assistance from employers in obtaining corrected addresses from members through inter-office mail, mail drop, e-mail, notes from the union which accompany paychecks, contacts with supervisors, or other appropriate means.
- Contact union parent body officials or the pension/benefits plan office to obtain members' most recent addresses.

- ❑ Provide business agents and stewards with the names of members with “bad addresses” and ask them to obtain updated addresses when visiting work sites.

- ❑ List in the union newspaper and announce at meetings the names of members whom the union has been unable to contact and ask fellow members if they know how to reach them.

Keeping an up-to-date membership mailing list is extremely important and requires ongoing attention. If your union’s mailing list is not up-to-date, the procedures outlined above should begin at least three to six months prior to nominations. In addition to updating membership lists, unions should post election notices at all work sites. In the case of mail ballot elections, such notices should advise members how to obtain a ballot if none is received.

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