AFSCME

Local Union Election Manual

AFSCME
We Make America Happen

To All AFSCME Local Unions:

Union democracy depends upon two things: an understanding of the union's procedures and participation. Nowhere is understanding of more importance than in the local unions' elections process.

This manual represents an attempt to spell out, in uncomplicated terms, the requirements that AFSCME local unions must meet in conducting elections. We have taken the requirements spelled out in the AFSCME Constitution and included them here, with wording approved by the International Executive Board.

The International Union Constitution — and not this manual — is the last word on whether an election is valid. The union has its own Judicial Panel to investigate alleged irregularities in local union elections and to apply the appropriate provisions of the Constitution. This manual does not affect that procedure, nor does it deal with provisions that may exist in local union constitutions. Since councils have different procedures involving delegate voting, council elections are not covered in this manual.

Rather, the manual has attempted to make the election process clear to every AFSCME member. I urge that all local union officers and election committee members read the manual in advance of local union elections. An understanding of and an adherence to proper election procedures will strengthen our union as a democratic institution.

In solidarity,

Lee Saunders
President

Elissa McBride
Secretary-Treasurer

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When are elections held?

The time for holding local union elections must be spelled out in the local union constitution.

While the constitution need not name a particular day, it should indicate that "all regular elections shall be held in the month of September," or whatever month the local regularly uses. If the officers are elected for one-year terms, as is the case in most locals, that is all the language that is needed.

If the local has, by proper vote, established two-year terms for its officers, the constitution should indicate that elections are held in a specific month "in each odd-numbered year" or "in each even-numbered year." If three-year terms are established, the constitution should call for elections in a specific month "every third year, beginning in 1973," or some similar language to indicate a starting point for measuring the terms of office.

Elections **must** be held in the regularly-scheduled month, even if the previous election and/or installation of officers was delayed. Such a delay might have come about because of a run-off election, a valid protest which resulted in a re-run of the election, or perhaps because of an "Act of God," such as a snowstorm or a flood, which made it impossible to conduct the previous election on the scheduled date.

Notice of nominations

The first step in the election process is the holding of nominations. The first step in the holding of nominations is to alert the membership that nominations are to take place. The International Constitution is quite specific as to how this is to be done:

"Not less than fifteen days prior to the holding of nominations for local union officers, a notice of the nominations and elections shall be mailed to each member at the member's last known home address." (Appendix D, Section 2, sub-section D). This requires

using the United States Postal Service, and the mail must be sent by first class mail. Sending emails does not satisfy this requirement.

The notice should indicate what offices are to be filled, and should state the date, time and place of both the nominations meeting and the election. (Nominations and elections can, from a legal standpoint, take place at the same meeting, though this is not practical for most locals.)

The form of the notice is less important than is the timing. The information may be included as a part of a regular meeting notice. It may be given by printing the notice in a newsletter or other publication that is mailed to the membership, provided it is prominently displayed and not buried in the middle of an article on some other subject. Notice may also, of course, be given in a special letter addressed to each member. The important thing is that the notice must be mailed to all members, at their home address, at least 15 days before the meeting at which nominations are to be made. Again, emailing the notice does not satisfy this requirement.

Because no mailing list is ever one hundred percent accurate, it is usually wise to post notices on bulletin boards concerning the nominations and elections in addition to the mailed notice.

Making nominations

Nominations may occur at a regular or special meeting of a membership. Other business of the local requiring a quorum may be conducted at this meeting; however, a quorum is not required at the time nominations are received. When the time for nominations arrives, the chairperson* of the meeting announces, "Nominations are now open for the office of President." Any member may then rise and, when recognized by the chairperson, say "I nominate

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** While it is not legally required, it is customary for the president to relinquish the chair to someone who is not going to be a candidate to conduct the nominations.*

Joe Smith for President." That is all that is required; no seconding speech is necessary. A member may also place the member's own name in nomination.

The chairperson should then announce, "Joe Smith has been nominated. Are there any other nominations for President?" This procedure should be continued until three consecutive calls for "other nominations" go unanswered. The chairperson should then declare the nominations for that office closed and proceed to the next office. No motion is needed, under such a circumstance, to close the nominations, and a motion to close nominations is always out of order if another member is seeking the floor for the purpose of making a nomination.

Some local unions use a Nominating Committee. A Nominating Committee, like any other committee, is ordinarily appointed by the local president with the approval of the executive board. The use of a Nominating Committee is permitted under the International Constitution, but local constitutions may prohibit them.

Use of a Nominating Committee, however, does not change the requirement that nominations be permitted from the floor at the nomination meeting. If such a committee is used, it would first make its report to the meeting. The chairperson of the meeting would then announce, "The Nominating Committee has nominated Joe Smith for President. Are there any other nominations for President?" and would then continue just as if no Nominating Committee had been used.

When nominations are closed, in any case where there is only one nominee and where that nominee has indicated that the nomination will be accepted, the unopposed candidate should be declared elected, unless the local's constitution limits the number of officers and board members to be elected from the same work location or chapter, in which case the elected candidates should be announced after the election votes are tallied. This should be done by the chairperson of the meeting and does not require a motion or a vote.

* While it is not legally required, it is customary for the president to relinquish the chair to someone who is not going to be a candidate to conduct the nominations.

Acceptance of nomination

The International Union Constitution, Appendix D, Section 2, subsection E, provides:

"Those nominated shall be afforded the opportunity to decline and, the name of any nominee who declines shall not appear on the ballot."

Note that it is "the opportunity to decline," not "the opportunity to accept" that is guaranteed. If a nominee is eligible for the office and if the nominee does not take the positive action of declining, that nominee's name must go on the ballot.

- If the nominee declines, that nominee is not a candidate.
- If the nominee accepts, that nominee is a candidate.
- If the nominee does neither, that nominee is assumed to be a candidate.

Ordinarily, the nominee is offered the opportunity to decline at the same meeting at which nominations are taken. If the nominee is present at the meeting the chairperson simply asks, "Do you accept the nomination?" and the answer is entered in the minutes of the meeting. If the nominee is not present, the Election Committee should attempt to contact the nominee later to ask the nominee to indicate acceptance or declination in writing to the Election Committee. However, if the nominee cannot be contacted or fails to respond when contacted, the nominee is assumed to have accepted the nomination.

No member may be a candidate for more than one local union office at the same time. (Keep in mind that a delegate is not an officer. A member may be a candidate for a local union office and for delegate to a convention or to the central labor union at the

same time.) If a member is nominated for two or more offices in the same election, the member must decline all except one such nomination. If the member fails to indicate which office the member wishes to seek, the Election Committee should assume that member is running for the first office for which that member was nominated and has declined all other nominations.

Some locals have attempted to permit running for more than one office in the same election by holding the nominations and the election for a single office at one time, then moving to the next office, and continuing the procedure until all offices have been filled. While such a procedure is legal — if spelled out in the local constitution — it is awkward and cumbersome and is not recommended.

Eligibility for office

There are only three absolute requirements for eligibility for local union office spelled out in the International Union Constitution:

1. The candidate "must be a member in good standing in the local union in which the nominee seeks office." This means that the candidate's membership is not currently in a suspended status and was not in a suspended status during the eligibility period to run for office; and,

2. "No member whose eligibility for membership is based upon employment in a position for which another organization is the exclusive representative with regard to wages, hours or other terms and conditions of employment, shall be eligible to seek or hold office at any level of the union;" and,

3. "No retired member or member of a Retired Employee Chapter shall be a candidate for any elective office."

To be eligible, however, a candidate must also "meet such other conditions as are stipulated in the constitution" of the local union.

In most cases, the only "other condition" has to do with length of membership in the local. The standard local union constitution

which appears in Appendix C of the International Constitution provides in part that:

"To be eligible for office, a member must be in good standing for one year immediately preceding the election, except in the initial election held in this local."

This is the rule in most locals. Local unions can extend this length of membership, in cases where officers are elected for terms longer than one year, up to a maximum period equal to the length of the term of office. Even where such language exists, however, the International President has ruled that (1) if there is only one nominee and (2) if that nominee would be ineligible only because of the length-of-membership requirement, that nominee may be declared elected and may serve the full term of that office. If there is more than one nominee and all of them are ineligible only because of the length-of-membership requirement, they should all be considered eligible and their names placed on the ballot.

Among other eligibility requirements which locals might legally establish, by appropriate constitutional language, are these:

1. A requirement that a candidate "be employed within the jurisdiction of this local union." The effect of such language is to bar from local union office full-time staff members of the international Union, a council, or the local.

2. A requirement that no more than a specified number of officers be from any single work location.

3. A requirement that one or more board members be elected by and/or from among the members in each of several "chapters" established by the local constitution.

4. A prohibition on the candidacy of a member who, during the immediately preceding term of office, was removed from office for excessive absenteeism, that is, for three or more consecutive unexcused absences.

Local Unions may not establish eligibility requirements which include:

1. Attendance at some minimum number of membership meetings during the preceding year.

2. Physical presence or written notice of acceptance of a nomination at the nomination meeting.

3. A bar against supervisory employees running for office.

4. A requirement that the nominee be a member of a bargaining unit. Membership eligibility — and eligibility for office — are determined by the jurisdiction of the local, not by the coverage of a bargaining unit. (However, if the member is in a bargaining unit represented exclusively by another labor organization, then that member is ineligible to seek or hold office, even though the member is otherwise within the jurisdiction of the local union.)

5. A requirement that a candidate have previously served as a shop steward or in some other capacity.

6. A prohibition against re-election or a limit on the number of consecutive terms to which a member may be elected.

The Election Committee

The Election Committee, like any other local union committee, is ordinarily appointed by the Local President, with the approval of the executive board. Some locals have attempted to provide for election of the election committee. Such attempts generally break down in discussions over who would conduct the election of the election committee and who would conduct the election of the election committee to conduct the election of the election committee and who would conduct the ....

There are some differences from other committees, however. In most locals, the president is an ex-officio member of all committees. The president may not serve as a member of an election committee in any election where the president is a

candidate; nor may any other candidate serve on the election committee. Because of this restriction, it is generally best to wait until after the nominations have been completed before appointing the election committee.

The election committee has, in the words of the constitution, "general responsibility for the conduct of the election in accordance with the constitution." This may involve some minor rule-making regarding such matters as hours of voting, unless those matters are either covered in the local constitution or have already been decided by membership vote. Aside from such matters, the election committee must be prepared to handle eight basic duties:

1. To make sure that each nominee has been offered the opportunity to decline the nomination.

2. To hear and decide, subject to membership approval, any challenge which may be made concerning the eligibility of any nominee.

3. To make sure that proper notice of the election is given. (if the nomination notice included the date, time, and place for the election, no further notice is required.)

4. To prepare or supervise the preparation of the ballots.

5. To supervise the issuance and return of the ballots. This usually means setting up one or more polling places where members may receive their ballots, mark them in secret, and deposit them in a ballot box. In some locals, it may mean mailing ballots to the membership and receiving them by return mail.

6. Counting the ballots and certifying the results of the election.

7. Hearing and deciding, subject to membership approval, any protests which may be filed concerning the conduct of the election.

8. Making a report to the membership concerning the results of the election and, subject to membership acceptance, the decisions made on any protests.

Challenges

A "challenge" is a formal objection to someone's right to run for office. It must be raised by a member before the election is actually held.

A challenge must be based on some provision of the constitution of the International Union or of the Local Union. Examples of valid bases for challenges are:

1. The nominee has not been a member of the local for the length of time required by the constitution.

2. The nominee has retired or has stated the intent to retire before the date of the election.

3. The nominee is ineligible because the nominee is a member of the union staff. (This basis is valid only if the local constitution requires that candidates be working in the jurisdiction of the local.)

4. The nominee has been declared ineligible for a time period which includes the date of the election as a result of charges and a trial held under provisions of the International Union Constitution.

5. The nominee is ineligible because the nominee is employed in a position for which another labor organization is the exclusive representative with regard to wages, hours or other terms and conditions of employment.

Any challenge that is raised must be referred immediately to the Election Committee. The Committee should meet as quickly as possible, offering both the challenged nominee and the member making the challenge the opportunity to be beard. The Committee may also wish to examine official records affecting the challenge, and it has an absolute right to do so.

The Committee must then decide the matter and report its decision to the membership before the election takes place. The Committee's

decision is subject to acceptance or rejection by the membership.

Action on a challenge may later be appealed to the Judicial Panel, under the provisions of Section 4 of Appendix D of the International Constitution. The filing of such an appeal, however, cannot be used as a basis for delaying the election.

Election campaigning

The general provisions on the rights and the restrictions on campaigning for office in the Local Union can be found in Section 1 of Appendix D of the International Constitution. Basically, these provisions are as follows:

1. No union funds or resources, and no funds or resources of any employer, can be used in campaigning for union office.

2. No publication of any kind which is sponsored by or supported by the union can make any endorsement or otherwise support any candidate for union office.

3. Any member who has been nominated for office or who announces an intention to run for office has the right to one* mailing to the membership made through the union office before the election. This mailing is not to be made at the union's expense.

It is probably this third provision that is the most misunderstood. Note that the right is "the right to mail," not "the right to print." The candidate must prepare the materials to be mailed, furnish the envelopes, do the stuffing and sealing, and put on the stamps or furnish the money to pay for the mailing meter charge. The candidate must, in effect, furnish everything but the names and addresses. All the Union is required to do is address and mail

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* *In local unions that include members employed by private sector employers, federal law requires that the union comply with all reasonable requests by a candidate to mail campaign materials to the membership. In those cases, the union cannot limit candidates to only one mailing.*

the material. Even here, if there is expense connected with the addressing, it must be borne by the candidate or the candidate's supporters.

Note also that the candidate is not entitled to a mailing list for the candidate's own use.

It is understood that no campaign signs or leaflets may be displayed at the polling place itself. Locals may, of course, make additional rules on such matters as how far from the polling place campaigning can take place. The major tests of any additional rules the local may adopt are:

1. Are the rules reasonable?

2. Are the rules uniformly applied to all candidates and at all polling places, if more than one location is used?

Notice of election

If the original notice sent out announcing the nominations included announcement of the date, time, and place of the election, no additional election notice is required. If the nomination notice did not announce the election, an additional notice must be given.

This notice must be "mailed to each member at the member's last known home address" at least 15 days before the election date. It should state the date, time, and place of the voting and should, in addition, indicate which offices are to be voted on and, if possible, list the candidates. If there are more than two candidates for a single office, it is wise to include in this notice the date, time and place for any run-off election that might be necessary, otherwise, the local will be required to mail a separate notice for a run-off election if one is required. Sending the notice by email does not satisfy these requirements.

If the voting itself is to be done by mail, a somewhat different procedure is used, and this is discussed under **"Voting by mail"** later in this manual.

Preparation of the ballots

The ballot should be headed "Official Ballot," followed by the name and number of the local and the date of the election.

The ballot should also include instructions: "Mark an X in the squares next to the names of those for whom you wish to vote," or some similar simply worded directions. It is also advisable to add "Do not sign your name" and "Do not make any other marks on this ballot." (If the voting is to be done by mail, the instructions must be more complicated. See the section on "VOTING BY MAIL.")

The various offices to be voted on should be listed one at a time and after the designation of each office, the words "Vote for One" or "Vote for Three" or "Vote for No More than Three" or whatever is appropriate should appear. This should be followed by a listing of the candidates, with a box or circle next to each name.

If the election is one in which offices to be voted on include both at-large (local-wide) and also on a regional, district or other similar basis, separate ballots must be used for those offices which are to be elected at-large and those which are to be elected on a regional or district basis.

Do not list on the ballot any office for which there is only one candidate. That candidate has already been declared elected, and placing that office on the ballot can only lead to confusion.

Do not print anything on the ballot to indicate which candidates are the incumbents.

Do not print anything on the ballot to indicate a candidate's job title, work location, etc., unless this information is necessary for the voter to know. If, for example, in the election of three executive board members the local constitution requires that at least one must be a clerical employee and at least one a custodial employee, it may be necessary to add the word "clerical" or "custodial" in parentheses after the name. Absent such a constitutional

requirement, any such identification could only be construed as a use of the ballot itself for campaign purposes.

The Election Committee is responsible for seeing that all names are correctly spelled on the ballot. The surest way to do this is by contacting the candidate personally and asking the candidate to indicate, preferably in writing, how the candidate's name is to be placed on the ballot.

William Stuyvesant Jones may want to be listed on the ballot as William Stuyvesant Jones, William S. Jones, W. Stuyvesant Jones, W. S. Jones, or Bill Jones, and the candidate should be given the opportunity to make that decision as well as giving the accurate spelling of the candidate's name.

The next question is, "In what order will names appear on the ballot?"

Most locals print the names of the ballot in the order in which the candidates were nominated, and this practice is perfectly proper.

Some locals list the candidates in alphabetical order, and this practice is also perfectly proper.

Some locals determine the order of names by drawing lots, and this practice is also perfectly proper.

What is not proper is to change from the method used previously to a new method **after** the nominations have taken place. If a change from one method to another is desirable, the new procedure should be approved by membership vote (or announced by the Election Committee) **before** the nominations begin.

The final step in preparing the ballots is the actual printing. This may be done by a commercial printer, on an office copying machine or printer, or in any other manner that will produce easily read ballots. The number to be printed should substantially exceed the number actually needed, to take into account the possibility of spoilage during the election itself.

The Election Committee should:

1. Determine how many are to be printed.

2. Make sure that the exact number are in fact printed.

3. Take charge of the ballots immediately upon completion of the printing, safeguarding them until the election is completed. All election materials, including any unused ballots, must be retained by the Election Committee for one year after the election.

Election procedure

The two basic requirements for the actual conduct of the election are contained in Appendix D, Section 2, sub-section F of the International Constitution:

1. "Election shall be by secret ballot."

2. "All local union members shall be afforded a reasonable opportunity to vote."

Some locals use elaborate voting booths or even curtained voting machines to ensure secrecy of the ballot. Others provide seating space at isolated tables. Others use even less complicated methods. Almost any method which affords the voter the opportunity to mark the ballot without any other person observing how the voter marks it is acceptable. After the voter marks the ballot, the voter deposits it in a ballot box or other container where it is mixed with the ballots cast by others so the voter's right to secrecy is preserved.

How the second requirement is met will depend on a local's size, whether its members work on more than one shift or in more than one location, as well as a number of other factors.

For comparatively small locals where everybody works a day shift, it is a common and completely acceptable practice to conduct the election during a membership meeting. At these meetings, it is not necessary that a quorum of the membership be present during the

election. For larger locals the holding of elections at a meeting may not work.

While it is possible to hold an election during a meeting in a local of 20 people, all of whom know each other, it is quite something else to try to do the same thing in a meeting attended by several hundred members. In the case of these larger locals, it is necessary to set up specified hours of voting and function on a basis similar to the holding of an election for public office. It is essential, of course, that a record be kept of which members voted — both to avoid having someone vote twice and to avoid giving ballots to nonmembers. To avoid these problems, it is necessary to work from an up-to-date membership listing and require each voter to (1) provide identification and (2) sign for their ballot.

In the case of locals that have members working around the clock (hospital locals, correctional or other institutional locals, police locals, etc.) the problem is still greater. In those situations, the voting hours must be of sufficient length to allow members on all shifts "a reasonable opportunity to vote."

If more than one voting location is to be used, great care must be taken to see that each member votes in only one location. This may mean breaking the membership list down by job location. It may also mean frequent telephone contacts between one location and another or to the Chairperson of the Election Committee for the purpose of up-dating a master list.

These problems for large locals and for shift-work locals can be solved. Three kinds of "solutions" that are occasionally attempted, however, are prohibited:

1. There can be no proxy voting. No member can cast a vote for another member.

2. Mail ballots cannot be used for those who are on duty during voting hours. Balloting by mail must be done by all members or by none.

3. There can be no "absentee" voting. In the rare instances where this has been tried, it has been found that the practice lends itself to such abuses that the International Executive Board has ruled against its use altogether.

Occasionally a problem will arise concerning a person who attempts to vote and there is doubt as to the person's eligibility. Challenges can be raised concerning the eligibility of a prospective voter either by a member of the Election Committee who is present or by an observer representing one of the candidates. It is up to the Election Committee to resolve the matter.

The prospective voter may, for instance, not be listed on the membership roster and yet still claim to be a member. If the person can produce evidence of dues payment — a stub from a current salary check showing checkoff of dues, or a receipt for current dues issued by the local, for example — the matter can probably be settled on the spot and a ballot issued. If it is a matter requiring further investigation or additional evidence which cannot be produced immediately, the person should be permitted to mark a ballot and then seal it in an envelope with the person's name on the outside. This envelope should then be placed in the ballot box or in a separate container until the challenge is resolved.

At the time for the closing of the polls, anyone standing in line to vote should be permitted to do so. Anyone arriving after that time will have lost the opportunity to vote.

Observers

The International Constitution, Appendix D, Section 2, sub-section I, provides:

"Any candidate whose name is to appear on the ballot shall have the right to have present an official observer of the candidate's own choosing, who must be a member of the Federation, in all places where ballots bearing the candidate's name are to be cast or counted."

Each candidate may designate the candidate's own observer. A candidate may not serve as an observer (even for another candidate) during the period when voting is actually taking place.

The observers are there to observe; they may not assist in the actual conduct of the election. They may not, while so serving, engage in any kind of campaigning. They may not wear buttons or badges in support of a candidate, pass out leaflets, or attempt to discuss the election with those who come to vote. (These restrictions on campaigning also apply, of course, to the members of the Election Committee who are conducting the election.)

Observers have, however, some absolute rights. These include the right to inspect the ballot box at any time up to the moment the election is to start; the right to be present in the room where the election is taking place throughout the hours set for the voting; the right to challenge any voter whom they think is not eligible to cast a vote; the right to take such notes as they choose to, including making their own list of who has voted; the right to call to the attention of the Election Committee members present any violation of proper procedure which they may observe; the right to remain after the polls have closed and to keep the ballot box under observation until it is opened; the right to observe the actual counting of the ballots, including the right to examine any suspect ballot; and the right to maintain their own tabulation as the Election Committee counts the ballots. The polling place and the location where the ballots are counted must be set-up in a manner that will allow the observers to carry out their responsibilities.

Counting the votes

In counting the votes, it is best to have two Committee members examining the ballots themselves, with one of them calling off the names of those who receive votes on the particular ballot, and with two others keeping a record of the votes by making a mark after each name that is called on a "tally sheet." Periodic checks should be made by these two tally clerks to make sure that their counts agree.

A number of questions are frequently raised as the ballots are being counted, concerning the validity of particular ballots. The following points should be kept in mind:

1. Such deviations from the instructions on the ballot as making a check mark instead of an "X" should not serve to void a ballot. **If the intention of the voter is clear, count the vote.**

2. If a voter has signed or written the voter's name on the ballot, void the entire ballot.

3. If a ballot is partly spoiled, that does not void the entire ballot. For example, if a voter has voted for two candidates for President, that ballot is void for that office. But if the same voter has voted for only one candidate for Recording Secretary, count the vote for that office.

4. Write-in votes are not counted at all; treat them as if they were **blank for the office for which a write-in appears.**

5. Keep a record of the number of totally void or totally blank ballots.

Another problem that frequently causes confusion is the practice of so-called "bullet voting." Let us look at a typical example.

Five candidates are listed on the ballot for Executive Board Member. Three are to be elected. A ballot is cast on which the voter has marked only one candidate for Executive Board Member. Should the ballot be counted or voided?

In most cases, it should be counted. A local union constitution may prohibit "bullet voting" and require that each voter vote for three; but such a rule may be established only by the local constitution. It may not be required by rules set by the Election Committee and it may not be required by rules adopted by membership vote.

It is either in the constitution or it is not. If it is not, then a vote cast for one or two in a situation where the voter could have voted for three is no different than a situation where the voter voted

for a candidate for President but chose not to vote for anyone for Secretary-Treasurer. The vote must be counted.

When the tabulation has been completed, the Committee should turn its attention to any remaining challenged votes. If the number of challenged ballots is not large enough to change the outcome of any of the contests, the Committee is free to refuse to decide the challenges. In that case, they remain in the sealed envelopes but are retained with the rest of the ballots and the election records.

If the number is great enough that it might affect the outcome of one or more races, the Committee must then take up each challenge separately and, without opening the envelope, make a decision as to whether or not the ballot should be counted. In those cases where the committee decides to count the ballot, the envelope should be opened and the ballot deposited, unexamined, in the now-empty ballot box. When all challenges have been disposed of, the ballots in the box should be counted and added to the previous tally. A record should be maintained of the names of those whose ballots were challenged and of the disposition of each.

The final results should then be placed in written form and signed by the members of the Election Committee. The Committee may wish to ask the observers to sign the report, also, but this is not essential and the observers are free to refuse to sign.

Majority vote

The International Constitution, Appendix D, Section 2, sub-section J, provides that:

"the candidate for each office receiving a majority of the votes cast for that office shall be declared elected. Any remaining unfilled offices shall be filled through a run-off election . . ."

The word majority, by dictionary definition, means "more than one-half."

"Majority" does **not** mean "fifty-one percent."

"Majority" does **not** mean "fifty per cent plus one."

"Majority" means "more than one-half."

If 99 **valid** votes are cast f**or an office**, 50 votes is a majority even though 50 is less than 51% and less than 50% plus one.

Right? **Right.**

But suppose 99 members vote in an election in which three executive board members are to be elected from among eight candidates; now what constitutes a majority? This is a question frequently raised as an Election Committee completes its count, particularly in situations where "bullet voting" is not prohibited. The formula to be used is this:

Take the total of all votes cast for all eight candidates. Divide it by double the number to be elected or (2 X 3 = 6) six. Any candidate who has more votes than the resulting figure has a majority and has been elected.

Some local union constitutions include language that limits the number of officers or board members who can be elected from a single work location or chapter. In these local unions the positions are to be filled in the order in which they appear in the constitution, unless the constitution states otherwise. As a result, some candidates may be disqualified from holding office if a candidate from the same work location or chapter is elected to a higher office. When a candidate is disqualified under these circumstances, is it necessary for the remaining candidates to have a majority of all of the votes cast to be elected? Yes!

Here is an example. Local Union's constitution states that only one officer may be elected from a chapter. The constitution lists the offices in the following order: President, Vice-President, Treasurer and Secretary. Following the tabulation of the ballots the results are:

- Candidate A from chapter 100 receives a majority of the votes cast for president;

- Candidate B from chapter 200 receives a majority of the votes cast for vice-president;
- Candidate C from chapter 100 is unopposed for the position of treasurer; and,
- Candidate D from chapter 200 receives a majority of the vote cast for secretary.

Which candidates are declared elected?

- Candidate A is seated first as the President;
- Candidate B is from a different chapter than the president and therefore, can be seated as vice-president;
- Candidate C is from the same chapter as Candidate A and therefore, cannot be seated even though they were unopposed; and,
- Candidate D is from the same chapter as Candidate B and therefore, cannot be seated. If there was only one other candidate for this position and that candidate was from a chapter other than 100 and 200, that candidate should be declared elected. If there are two or more other candidates for this position a run-off election should be held to determine which will receive a majority of the votes.

Run-off elections

When the election is completed, those candidates who received a majority of the votes cast for their offices are declared elected. If no candidate received a majority, a run-off election must be held for that office. The ballot for the run-off election will contain two names for each office to be filled. For a single-post office, such as President, this simply means listing the two candidates who ran first and second in the original election. In a multi-post office, the situation may be somewhat different. If, for example, nine candidates are running for three executive board positions and only one received a majority, the ballot for the run-off would list

the four candidates who finished in positions two through five in the original election.

This "Rule of Two" should avoid the necessity of more than one run-off; it doesn't always work. If, in the race for President, no one gets a majority and there is a tie for the second spot, three names must go on the run-off ballot — unless one withdraws. If three names do go on the ballot, the majority requirement still applies and a second run-off is possible.

Suppose, following an election contest in which no candidate received a majority, one of the top two withdraws. Is a run-off still required?

Yes, it is, with the third candidate moving up into the run-off. The only way to avoid a run-off is for all candidates except one to withdraw.

When can a run-off be held? If the election was held at a meeting and the meeting is still in process when the ballots are counted and the results reported, it can be held immediately. Otherwise, the 15-day notice requirements comes into play — unless, of course, the local has, as part of the original notice informed the membership that a run-off, if one is needed, will be held on a particular day, time and place. In that case, the original notice will suffice.

In any case, the run-off should be held as quickly as possible and under the same general rules as were applied during the original election.

Protests

A protest is not the same as a challenge. A challenge questions a nominee's right to run for office. A protest questions the actual conduct of the election itself.

A protest may be filed immediately upon completion of the election or within ten days thereafter. It should be filed in writing, with the Election Committee Chairperson, if the Committee has

not yet been discharged, or with the President or Secretary of the Local.

Protests should be heard by the Election Committee, in the first instance, unless the Committee has been discharged prior to the filing of the protest. In any event, the final decision to accept or reject the recommendation of the Election Committee is made by the membership and it must be decided within thirty days after the protest is filed.

If the membership decides that there were violations that were of such a nature that they may have affected the outcome of the election, they may order the election, or any part of it, set aside and a new election held.

Appeals on protests (or on challenges) may be made to the Judicial Panel (1) within 10 days following the decision of the Local, or (2) within 40 days after the protest was filed, if no decision has been reached by the Local within 30 days after the protest (or challenge) is filed with the local.

There is a tendency on the part of some to file formal protests based on the most minute and technical of violations. This is, of course, the right of any member and the local — or the Judicial Panel — is bound to investigate the matter and rule on it.

When the matter is investigated by the Judicial Panel, they tend to take a somewhat practical position. If a violation is found that is of a purely technical nature, they then ask the inevitable question: "Did the violation or could the violation have affected the outcome of the election?" If the answer is "No," they will not set aside the election.

On the other hand if the violations were of such a nature and scope that they might have affected the result, they will order a re-run — and may even supervise it themselves.

Installation of officers

The Election Committee makes its general report to the membership. The membership votes to accept it. (If there is no formal protest pending, the membership has no choice but to accept it.)

When do the newly-elected officers take office?

"Those elected shall be installed in office immediately, but in no event later than 10 days after the tabulation of the election ballots, and regardless of any election related protests that are filed." (International Constitution, Appendix D, Section 2, sub-section J)

Some local union constitutions have provisions that would seem to provide for a delay of anywhere from a few days to a couple of months between completion of the election and the installation of the new officers. No such provision is valid. Those elected must be installed **immediately.** This means that those elected officers who are present when the Election Committee completes the tabulation of ballots should be installed at that time. For those elected officers who are not present, the International Constitution requires that arrangements be made to install them no later than 10 days after the tabulation. The installation of officers may not be delayed because of any pending election related protests or the scheduling of a membership meeting.

The outgoing officers are obligated to turn over to their successors "all books, papers and other property" of the union, and they remain under bond until they have done so.

Who installs the new officers? Anybody that has a book handy. They have, in fact, been the officers of the local from the moment the Election Committee's report was accepted and are legally bound by the "Obligation of an Officer" found in Appendix B of the International Constitution whether or not they have raised their hands and recited the words.

Length of term

For how long do the new officers serve before they must seek re-election?

The length of term for each office is set in the Local Union Constitution. For most locals, including all those covered by the Standard Constitution contained in Appendix C of the International Constitution, the terms are one year for all officers except trustees. The trustees serve three-year terms, with one term expiring each year. Locals may make different provisions, by amendments to their local constitutions, subject to the approval of the International President. The absolute maximum term of local union office is three years. Any amendment which increases the length of term would, of course, not extend the terms of the incumbents but would take effect at the time of the next election.

Elections to fill vacancies in office

Vacancies in office may occur for any number of reasons: death, resignation, transfer to another local because of a job transfer or promotion, removal from office following charges and trial procedures, or loss of eligibility for membership in the local. Officers may also be removed, if provided in the local constitution, for three or more consecutive unexcused absences from membership or Executive Board meetings.

There are two basic methods which may be used to fill vacant offices:

1. Election by the Executive Board.

2. Election by the membership in a special election.

If the first method is used, it means what it says—the executive board holds an election in which any board member who is present can nominate a candidate to fill the vacancy and, if there is more than one eligible nominee, the position is filled by a secret ballot vote in which each board member present casts one vote. If the second method is used, the notice requirements and all other rules

pertaining to regular elections are in force. Local constitutions should provide which of these methods is to be used. If the local constitution is silent on the subject, the vacancy is filled by election by the Executive Board.

Vacancies may not be filled:

1. By appointment by the President, even when that appointment requires subsequent ratification by the Board or the membership.

2. By selection by the Executive Board, subject to ratification at a membership meeting. If the membership is to vote on the question, they must be given the opportunity to nominate and elect, not just a choice between a Board-selected candidate and no one.

Some locals provide in their constitutions that if the office of President becomes vacant, the Vice-President automatically succeeds to the Presidency and the office of Vice-President is then declared vacant and filled. This is a perfectly proper procedure if it is **spelled out in the local constitution.**

Election of convention delegates

The International Constitution provides, in Appendix D, Section 3, that:

"Local unions shall elect council delegates (and) delegates to conventions of the International Union in the manner prescribed for the election of local officers . . ."

Delegates, however, are not officers, and while they are elected in the same manner as are officers, there are certain differences.

First, the majority vote requirement does not apply to the election of delegates unless the local union constitution specifically provides for a majority requirement. The reason for this is simply that if the majority rule should result in a run-off election, the convention might well be over before a delegate was elected.

Second, in the case of delegates to conventions of the International Union, the length-of-membership requirement for eligibility to run is set by the International Constitution (Article IV, Section 12) as membership from and after the fourth full month preceding the opening of the convention, and no local may change that requirement or establish any different requirement.

Third, again in the case of the International Convention, a delegate must be nominated and elected during the last 120 days preceding the opening of the Convention. This time limit does not apply to those few locals that have regularly scheduled meetings less often than once every three months; nor does it affect the right of an elected officer of the local to serve where the constitutionally-prescribed duties of that office include the duty to serve as a delegate to the International Convention.

Fourth, it is possible for a local to elect as its delegate to the International Convention someone who is a member of another local, instead of one of its own members. In order to do this, the local must first vote on the question: "Shall this local elect as a convention delegate a person who is not a member of this local union?" If that question is answered "Yes" by a majority vote, the local may then proceed to elect a member of another local who (1) has already been elected to serve as a delegate from that member's own local, which local is in the same state and/or affiliated with the same Council, or (2) is a delegate representing the council with which the local is affiliated. The limit on this kind of joint representation is that no individual may represent more than five locals or four locals and one council. No International officer, International staff member, or Judicial Panel member may represent more than one local or council.

Finally, the time table for protests on the election of delegates is much shorter than for officer elections. The protest must be filed with and decided by the local union by or on the date of the meeting at which the report of the Election Committee is acted on. Any appeal from that decision to the Judicial Panel must be filed within five days thereafter. (See Appendix D, Section 5, of the International Constitution.)

Voting by mail

Elections conducted by mail are more complicated than those conducted in-person and, as a result, there is a greater chance of encountering problems that can adversely affect the election process. For example, mailing lists are frequently inaccurate, deliveries are sometimes slow, and elections of this type lend themselves to fraud and manipulation more easily than do other kinds of elections.

Nevertheless, there are some locals with membership spread over such a large geographical area that mail votes are almost the only practical method of providing every member with "a reasonable opportunity to vote." Because of the complexity and potential for manipulation of mail ballot elections it is extremely important that proper procedures, as spelled out in this section of the manual, are followed.

If elections are to be conducted my mail, the following procedures must be followed:

1. The mailing to each member should contain:

   a. A ballot.

   b. A plain envelope (or one with the word "ballot" printed on it).

   c. A stamped envelope addressed to the point to which ballots are to be returned, with a place for the member to write the member's name on the outside (or, if possible, with the member's name already on it).

   d. A set of instructions, which may be printed on the ballot itself.

2. The member should be instructed to:

   a. Mark the ballot.

b. Place it in the plain envelope (or the one marked "Ballot") and seal it.

c. Place the envelope in the other envelope, seal it, write the member's name on the outside, and mail it in time to be received no later than a specified date.

3. The Election Committee should carefully supervise the mailing to the members. Official observers designated by the candidates are entitled to be present during the addressing, stuffing, and mailing of the ballots.

4. The return envelopes should be addressed to a neutral address, not to the union office or to someone's home. The best way is to have them returned to a Post Office Box requiring two keys to open. One of these keys should be retained by the Chairperson of the Election Committee and the second by another Committee member.

5. The Election Committee should allow at least 20 days between the mailing of the ballots and the opening of the box. If this amount of time is allowed, it is not necessary to do a separate mailing of an "Election Notice" 15 days in advance; the ballot itself constitutes notice.

6. The box should be opened on the specified date, with the observers invited to be present.

7. The names on the envelopes should be checked against the membership list, and as each is verified, the envelope should be opened and the inner envelope containing the ballot should be dropped in a ballot box.

8. When the verification process is completed, the plain envelopes should be opened, and the ballots removed.

9. The ballots are then tabulated and the report made in the same manner as for any other kind of election.

There are at least two temptations that must be avoided:

1. The temptation to save money by not putting stamps or postage on the return envelopes. The local may not require a member to purchase a stamp and put it on the return envelope as the price for voting.

2. The temptation to save money by mailing only to those members located in outlying areas and requiring those working or living in nearby areas to vote at a polling place. Everyone votes by mail or no one votes by mail.

AMENDED AND APPROVED BY THE INTERNATIONAL EXECUTIVE BOARD ON SEPTEMBER 14, 2016.

American Federation of State, County
and Municipal Employees, AFL-CIO

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