



# **GUIDE FOR LOCAL UNION ELECTION COMMITTEES**





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*The UAW Constitution is the living law of our Union. It guarantees basic trade union rights to all members. It is intended to protect equally the rights of individual members, and of the Union as a whole.*

*The most important of these trade union rights is the right of the membership to fair, democratic election procedures in all instances when they vote to choose their officials. In order to guarantee this right, the UAW Constitution provides basic regulations for the conduct of elections for local union office, convention delegates and stewards and committee members.*

*This booklet should help local unions to carry out the constitutional and legal provisions which regulate elections.*

*In some cases, the comments contained herein reflect constitutional language, or official interpretations of constitutional language. In most cases, however, the recommended details of election procedure can be varied by local unions without violating constitutional provisions or official interpretations so long as the basic thinking reflected in the recommendations is followed.*

*This booklet may not be used as a substitute for constitutional interpretations if a local union finds it necessary to decide whether a particular element of its election procedure is or is not constitutional.*

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# A MESSAGE TO LOCAL UNION ELECTION COMMITTEE MEMBERS

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**C**ongratulations! You have been elected to serve as an Election Committee member in your local union. During the upcoming weeks you and your fellow Election Committee members will be entrusted with the responsibility of providing members with the opportunity to exercise the most fundamental of union rights, the right to elect their local union's officers by secret ballot. Don't underestimate the importance of your role — you are an essential part of the democratic process. The persons elected to office will help shape the future of your local union as they handle the local union's finances, are involved in contract negotiations and grievances, and conduct other business affecting the welfare of your local union's members.

## YOUR ROLE

As a member of the Election Committee, you will be responsible for conducting your local union's election of officers in accordance with the Constitution and local union bylaws. You will need to be patient, knowledgeable, organized, firm, and, most of all, impartial. At times, your hard work may seem thankless. But remember, your job is not to please everyone but to run a fair and honest election.

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

## WHAT'S IN THIS GUIDE

The guide is designed to be an easy-to-use reference based on the law and regulations as well as the Constitution. It will take you step-by-step through the election process, help you to identify your responsibilities during each step, and provide suggestions to make your job easier. Most chapters are divided into three parts. "**Requirements**" has essential information about the standards for conducting elections, "**Suggestions**" provides practical tips and "**Common Pitfalls**" warns of mistakes often made in local union elections. Some chapters end with the applicable provision of the LMRDA and/or any related provisions from our Constitution, Administrative Letters, and a place to insert any related provisions of your local union bylaws.

**WHAT'S IN  
THIS GUIDE  
(CONTINUED)**

Many of the chapters in the guide are followed by figures (such as sample election notices) relating to the subject being discussed. Fictitious Local Union 0000, as well as fictitious names, are used in several of the figures to illustrate recommended nomination and election procedures for a typical local union. Your local union may want to adapt some of these figures for use in its own election. Also note that following Chapter 18 are Figures 19 and 20 which contain text of LMRDA Title IV & V - *Elections* and *Prohibition Against Certain Persons Holding Office* (Section 504), respectively. Additionally, Figure 21 is a *Checklist for Conducting Local Union Officer Elections* which you should find helpful.

**WHO  
SHOULD USE  
THIS GUIDE**

This guide should be used by the local union Election Committee members responsible for conducting officer elections. Although the guide covers the “basics” and is geared primarily to Election Committees with little or no experience in running an election, it can also be helpful to more experienced Election Committees.

**HOW TO  
USE THIS  
GUIDE**

Election Committees should become familiar with the contents of this guide as soon as possible after being elected. An initial review of the guide will provide an overview of the election process and point out all the steps involved in conducting a fair and impartial election.

You are not expected to remember all the rules for conducting elections after reviewing this guide. Instead, before each stage of your local union's election, read the applicable chapters to better understand election requirements and your responsibilities and consult the guide frequently during the election process. Although we have tried to include all necessary information, the guide does not specifically address every situation that may develop. Some elections may involve complex or unusual issues requiring you to seek further assistance.

**SEEKING  
ASSISTANCE**

If you need advice or have questions about election requirements in the Constitution, you may wish to contact your regional office. Questions concerning an interpretation of your local union bylaws must first be directed to your local union membership. Such interpretations are subject to appeal, pursuant to Article 33 of the Constitution.

**GETTING  
STARTED**

Now that you are familiar with the purpose and contents of this guide and how best to use it, it's time to get started. Read Chapter 1 and begin preparing for your local union's election of officers. Good Luck!



# GETTING READY

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## CHAPTER 1

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

### Determining Election Responsibilities

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

### Reviewing Materials from Prior Elections

After determining their general responsibilities, Election Committee members should obtain and review the following:

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

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

## Meeting with Current Officers

Per Article 38, Section 10(c) - Interpretations of the Constitution, the "Local Union Election Committee is obligated, in the preparation for an election required by the Local Union to be conducted by the Election Committee, to consult and cooperate with the Officers of the Local Union in establishing the procedures for such election. However, the actual conduct of the election is entirely the responsibility of the Election Committee."

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

- Seek their cooperation and support. Make sure that they understand that you must remain impartial and that they are not entitled to any additional information, special privileges, or considerations because they are current officers.
- Find out if any problems occurred in your local union's most recent nominations and election such as complaints about the polling site, voting hours, or voter eligibility. If so, ask the current officers for recommendations about how to avoid these problems in the upcoming election.
- Discuss which election responsibilities will be handled by the officers and/or local union staff. For example, who will update the membership address list and who will mail election notices to all members?
- Determine the person in the local union you should deal with to obtain election-related supplies and necessary information.
- Decide who will prepare the voter eligibility list, when it will be available, and the number of copies necessary. Keep in mind that the list should be up-to-date and contain the names of all members eligible to vote according to the provisions of the Constitution and bylaws.
- Determine if and when "lost time" or other local union payments will be made to Election Committee members.
- For the use of absentee ballots, see Interpretation #1 of Article 38, Section 10(b) of the Constitution.
- The local union's Executive Board is obligated to approve as much lost time as is necessary for the Election Committee to prepare for and conduct the election, as well as to approve expenditures which the Election Committee recommends as necessary to ensure proper operation of the election machinery.

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

## Scheduling the Election

- The local union membership must set the date, time and place of the election and runoff election, if necessary.
- Whether elections are conducted with paper ballots or on voting machines is a decision that must be made by the membership, either through bylaws or by adoption of an appropriate motion at a membership meeting.
- If the election will be conducted by mail, determine when, where, and by whom the ballot packages will be prepared and mailed, after thoroughly reviewing the information in *Electing Local Union Officers by Mail* (see Chapter 18, Figure 22).
- Next, the Election Committee should develop a detailed timetable which lists all important election-related dates and deadlines. An *Election Planner* is included in this chapter as Figure 1 to assist you in planning the important dates for the election. By starting with the election date and working backward, you can establish the dates of all major events such as the posting/mailing of the nomination notice, the nomination meeting, nominee acceptance deadline, mailing of the election notice, preparation and printing of ballots, and the ballot tally. In preparing the timetable, include time frames or deadlines specified in the Constitution and the local union bylaws and remember to consider holidays and weekends. After the timetable is established, the Election Committee should decide who will be responsible for completing the various tasks outlined in the Election Planner.

## Additional Suggestions

- Keep notes, copies of election materials, and records of decisions and actions taken throughout the nomination and election process. These records will serve to refresh your memory if any decision is later challenged or you are called upon to explain your actions and will also help others who conduct your local union's future elections.
- Communicate regularly to confirm that all required tasks are being completed and to discuss problems and other concerns. Review and discuss the contents of this guide at each stage of the nomination and election process to make sure you understand your role and responsibilities.
- Develop a written set of rules setting forth both the significant dates in the nomination and election process and the guidelines to be followed by all parties during the election period. Figure 2 - *Election and Campaign Rules* is a sample of rules for a fictitious local union.
- Give copies of the election rules to all candidates and keep them informed of your decisions and any rule changes. Many problems which occur during local union officer elections are caused by a lack of communication. You will find that members and candidates are less likely to challenge the election if you adequately explain the election rules and procedures in advance.
- Encourage candidates, challengers, and members to raise any questions or problems about nomination or election procedures as soon as possible so that the Election Committee has a chance to remedy any problems or make any necessary changes in the election rules.

- If a local union has a membership in excess of 2,000, it should give serious consideration to the employment of a Certified Public Accountant or some other appropriate outside agency to conduct the election and tabulate the count.
- Don't put things off until tomorrow. Investing a little time early in the process, pinpointing specific tasks and the persons responsible for completing them, and working as a team will result in a better-run election and will make your job as an Election Committee member easier and more rewarding.

**FIGURE 1****ELECTION PLANNER**

This planner is designed to help local union Election Committees plan for and schedule all the significant activities associated with conducting an officer election. The time projections, unless otherwise noted, are included as recommendations only. Some of the listed activities may occur in a different sequence in your local union requiring that the time schedule be adjusted. Any other activities applicable to your local 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 the Constitution and local union bylaws and be sure to allow enough time for adequate completion of each activity.

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

**FIGURE 2**

**ELECTION AND CAMPAIGN RULES**

**LOCAL 0000**

**1. CONSTITUTION AND BYLAWS**

The nomination and election of Local 0000 officers will be conducted in accordance with the Constitution; the local union bylaws; and the Labor-Management Reporting and Disclosure Act of 1959, as amended.

**2. TERM OF OFFICE**

The officers elected will serve a three-year term which will end on [--date--]. Installation of officers will occur at a Local 0000 membership meeting on [--date--].

**3. ELIGIBILITY TO HOLD OFFICE**

As provided in Article 38, Section 3 of the Constitution, "No member shall be eligible for election as an Executive Officer of the local union until s/he has been a member in continuous good standing in the local union for one (1) year immediately prior to the nomination, except in the case of a newly organized local union."

**4. NOMINATION NOTICE FOR EXECUTIVE OFFICERS**

A nomination notice will be posted on local union bulletin boards at all worksites and the Local 0000 hall and mailed to all Local 0000 members on [---date---]. [Refer to Chapter 10, Figure 6.]

**5. PROCEDURE FOR ELECTING EXECUTIVE BOARD MEMBER-AT-LARGE**

Where a local union has Executive Board members in addition to its executive officers, these members may be elected by a variety of methods as may be set forth in the local union's bylaws. However, the Labor-Management Reporting and Disclosure Act requires that the balloting be secret with the same notice procedures as set forth in Article 38, Section 2 of the Constitution.

**6. NOMINATION MEETING**

Nominations for the executive offices of President, Vice President (or Vice Presidents), Recording Secretary, Financial Secretary, Treasurer, three (3) Trustees, Sergeant-at-Arms and guide will be accepted from the floor at the [--date--] membership meeting. **The local union could also include convention delegates, if appropriate, and committee members and/or stewards:**

Date:        [---day and date---]  
Time:        [--time of day--]  
Place:        **Local 0000 Hall**  
                  **[Address]**

Nominations may also be made in writing and must be received by Recording Secretary [--name--] at the Local 0000 office [--address--], no later than [--time--] on [--date--].

All local unions except those in the State of Michigan, affiliated with various State, County, City and Area CAP Councils, having executive officers (State Councils for four (4) top officers), who as a result of their election to those offices will also serve as a delegate to the above mentioned CAP Councils, are required to advise the membership of such designation at the time of their regular elections.

**7. NOMINATION ACCEPTANCES**

A candidate must accept or decline nomination if present at the nomination meeting. Any nominee not present is required to submit a written acceptance to Recording Secretary [--name--] by [--time--] on [--date--].

**8. CANDIDATE ELIGIBILITY DETERMINATIONS**

The Election Committee will review Local 0000 dues records to determine the eligibility of all nominees. Eligible nominees will be notified of their eligibility, given a copy of these rules, and asked how they wish their names to appear on the ballot. Ineligible nominees will be advised of the reason(s) they are not eligible to run for office.

**9. MEETING WITH CANDIDATES**

At [--time--] on [--day and date--], the Election Committee will meet with all interested candidates at the Local 0000 hall to discuss election procedures, inspection of the local union's membership list, distribution of campaign literature, challengers, and other campaign rules. At this meeting, a drawing will be held to **determine candidate position on the ballot**. If a candidate is absent and does not have a representative at the meeting, an Election Committee member will represent the candidate in the drawing.

**10. INSPECTION OF THE MEMBERSHIP LIST**

Each candidate may inspect (*not copy*) the Local 0000 membership list once within 30 days prior to the election. No candidate is entitled to receive a copy of the list.

The membership list will be available for inspection at the Local 0000 office between **[--time--]**, Monday through Friday, from **[--date--]** through **[--date--]**. Any candidate who wishes to inspect the list should contact Financial Secretary **[--name--]**.

**11. DISTRIBUTION OF CAMPAIGN LITERATURE**

Local 0000 will honor any reasonable request by a candidate to distribute campaign literature to members at the candidate's expense. Requests will be honored in the order received. Campaign literature must be provided to the local union in sealed, stamped envelopes which are ready for mailing. Each candidate should check with postal officials to determine the proper postage. If the local union requires use of a commercial mailing house, the candidate must meet the deposit, and other market requirements of that firm.

Candidates must pay **[--dollar amount--]** in advance for each mailing to cover the cost of address labels. Arrangements have been made for Local 0000 office staff to put address labels on the envelopes containing campaign literature at a rate of **[--dollar amount--]** per hour. Candidates should contact the local union at **[--telephone number--]** to arrange a mailing.

**12. CAMPAIGN RESTRICTIONS**

Federal law prohibits the use of any local union or employer funds to promote the candidacy of any person in a local union Officer Election. This prohibition applies to cash, facilities, equipment, vehicles, office supplies, etc., of Local 0000 and any other union, and of employers whether or not they employ Local 0000 members. Union officers and employees may not campaign on time paid for by the local union.

Federal law also provides that candidates must be treated equally regarding the opportunity to campaign and that all members may support the candidates of their choice without being subject to penalty, discipline, or reprisal of any kind.

**13. VOTER ELIGIBILITY**

As provided in Article 38, Section 10(a) of the Constitution, "Every member in good standing shall be entitled to vote at all Local Union elections." Also, as per Article 6, Section 4, "Upon acceptance of the application, membership shall date from the first day of the month for which dues are paid or dues check-off is authorized."

**14. ELECTION NOTICE**

A NOTICE OF ELECTION will be mailed to the last known home address of each Local 0000 member and retiree on or before **[--date--]**. Election notices will also be posted on local union bulletin boards at all worksites and the Local 0000 hall.



**15. CHALLENGERS**

Candidates are entitled to have challengers present at the polls and the tally of ballots. Challengers must be members of Local 0000, as required by Article 38, Section 10(g) of the Constitution, which also prohibits candidates from serving as challengers. Candidates should submit the names of their challengers in writing to Election Chairperson **[name]** prior to election day.

**16. ELECTION DAY**

The election will be held from **[--time--]** to **[--time--]** on **[--date--]** at the Local 0000 hall -- **[address]**. Members will be asked to present their Local 0000 membership card, driver's license, or some other form of identification at the polls. After determining that a member is eligible to vote, the Election Committee will mark the member's name off the eligibility list. The member will be asked to sign a voter register, be given a ballot, and instructed to vote in secret using one of the voting booths available for the election. All members will be **required** to use the voting booths.

No campaigning will be permitted in the polling area or in any part of the Local 0000 hall on election day. Only the Local 0000 Election Committee, candidate challengers, and members who are voting or waiting in line to vote will be permitted in the polling area.

**17. TALLY OF BALLOTS**

Ballots will be counted by the Election Committee after the polls close on **[--date--]**, beginning at approximately **[--time--]** at the Local 0000 hall.

**Write-in votes** are not permitted in the election, and pursuant to Article 38, Section 2 of the Constitution, executive officers require a majority vote. In accordance with Article 38, Section 5 of the Constitution, other officers are elected by plurality vote, unless the local union's bylaws require a majority vote.

**18. ELECTION RESULTS**

The election results will be posted at the Local 0000 hall and on local union bulletin boards at all worksites after the tally is completed.

**19. ELECTION RECORDS**

The Local 0000 Recording Secretary and/or Election Committee are responsible for maintaining all nomination and election records for at least one year after the election, as required by federal law and Article 38, Section 12 of the Constitution.

**20. QUESTIONS OR PROBLEMS**

Candidates and members with questions about the nomination or election procedures should contact a member of the Election Committee at **[--telephone number--]**. Any violation of these rules should be reported promptly to the Election Committee so that corrective action can be taken, if necessary.

21. **PROTESTS**<sup>1</sup>

Article 38, Section 11 of the Constitution provides that any member may challenge a local union officer election by filing a protest. Article 38, Section 11 reads:

"Following each election, the Election Committee shall report in writing the canvass of the results of the election to the membership's next membership meeting. No protest to an election shall be considered unless raised within seven (7) days of the closing of the polls or at the next membership meeting, whichever is later. **A protest must either be in writing, or made at the membership meeting. If written, the protest must be actually received by the local union recording secretary before the deadline.**"



The aforementioned rules are not all inclusive. Additional election rules or clarifications may be issued by the Local 0000 Election Committee as needed during the nomination and election period.

**Issued By: Local 0000 Election Committee**

**Date: [--date--]**

\_\_\_\_\_  
[--name--]

\_\_\_\_\_  
**Chairperson**

\_\_\_\_\_  
[--name--]

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<sup>1</sup> Protests involving an election for convention delegate, or arising out of campaigns for election as International Officer or member of the International Executive Board **must** be filed directly with the Credentials Committee of the UAW Convention. The normal procedures of Article 38, Section 11 do not apply. [See Chapter 16.]

# NOMINATION NOTICE

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## CHAPTER 2

**F**or some Election Committee members preparing a notice of nominations is the first step in the election process. Since the Constitution and federal law require that local unions give members a reasonable opportunity to nominate candidates of their choice, Election Committee members must provide a timely notice of nominations to all members, even if the constitution and local union's bylaws indicate that nominations will occur in a predetermined month. Although the law does not define what constitutes reasonable notice of nominations, U.S. Department of Labor regulations require that the nomination notice be given in a manner reasonably calculated to reach all **members in good standing**. In some cases Election Committee members may have to make a special effort to notify members, but in most local unions it is a relatively easy task to make sure that all members know about nominations and have an opportunity to participate.

### Requirements

- The nomination notice should specify the offices to be filled in the election (and identify any offices for which the officer is a delegate by virtue of election to office). It should also include the date, time, place, and method for submitting nominations (by mail, petition, or orally at a meeting). [See Chapter 10, Figure 6 - Nomination and Election Notice]
- A number of methods may be used for giving notice of nominations including: mailing a notice to the last known home address of each member, timely publishing a notice in the local union's newspaper, posting or distributing a notice at the worksite(s), or other methods reasonably calculated to inform all members in good standing.
- The nomination notice (unlike an election notice) does not have to be given at least 15 days before nominations but the notice must be given in accordance with any requirement in the Constitution (see Article 38, Section 2) and local union's bylaws and must allow enough time for members to have a reasonable opportunity to nominate candidates of their choice.
- A local union must take steps to notify sick, laid-off, or other non-working members who may be eligible to nominate candidates but who might not ordinarily see a notice posted only at the worksite(s) or local union hall.
- A local union may mail a combined notice of both nominations and election if it gives members a reasonable time to nominate candidates and also meets all the requirements for election notices. [See Chapter 10, Figure 6 - Nomination and Election Notice]

## Suggestions

- In order to prevent any misunderstandings, the nomination notice should also provide any necessary information about the term of office; instructions for accepting nominations; and eligibility requirements for candidates.
- Since a local union must give reasonable notice of nominations, all members should be informed in advance of new candidate eligibility requirements and any changes to the requirements.
- Election Committee members should obtain a copy of the nomination notice used for their local union's most recent election. If this notice contains the required information, Election Committee members may wish to follow the same format.
- After the nomination notice is prepared, the Election Committee should review it carefully to be sure that it contains no mistakes and all necessary information is included.
- Election Committee members should make the necessary arrangements for distributing the nomination notice with local union officers or staff well in advance of the day the notice is to be distributed.
- If Election Committee members do not distribute the nomination notice, they should ensure that it is properly distributed by other local union officials.
- If the local union newspaper is used to give notice of nominations, the notice should appear in a conspicuous place in the newspaper. Election Committee members should advise the editor of the newspaper that the notice must be given a prominent position.
- The Election Committee should retain a copy of the nomination notice for at least one year after the election and keep a record of the date and method(s) of distribution.

## Common Pitfalls

- Failing to notify retired, sick or laid-off members about nominations.
- Adding or removing names *after* the nomination period closes.

<p><b><u>LMRDA Reference:</u></b> Section 401(e) provides that:  <i>In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates. . .</i></p>	<p><b><u>UAW Constitution Reference:</u></b> Article 38, Section 2</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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FIGURE 3

**CANDIDATE ELIGIBILITY LETTER - ELIGIBLE**

**[--date--]**

**[name of candidate]**  
**[address]**

Dear Brother / Sister **[name of candidate]**:

As you know, Local 0000 will conduct its regularly scheduled election of officers on **[-date-]**. At the nomination meeting on **[--date--]**, you were nominated and accepted nomination to be a candidate for the office of **[name of office]** for a three-year term of office.

The Election Committee has reviewed Local 0000 dues records and determined that you have met the necessary candidate eligibility requirements and are therefore eligible to run for office.

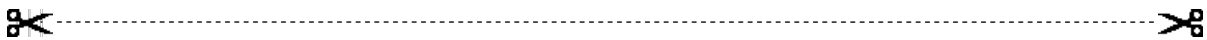
You are invited to attend a meeting for candidates at **[--time--]** on **[--date--]** at the Local 0000 Hall. At this meeting, the Election Committee will review the procedures to be followed in the election and discuss campaign rules. In addition, a drawing will be held to determine candidate position on the ballot. If you are not able to attend, you may send a representative; otherwise, an Election Committee member will represent you in the drawing.

Please complete and return the attached form by **[--date--]** so that your name (proper, familiar, or nickname) will appear on the ballot exactly as you wish. If the form is not returned, your name will appear on the ballot as printed above.

I am enclosing a copy of the Local 0000 “Election and Campaign Rules” for your information. If you have any questions about the election or the scheduled meeting for candidates, please call me at **[--phone number--]**.

In solidarity,

**[name]**  
Election Chairperson



I wish my name to appear on the Local 0000 ballot as follows:

\_\_\_\_\_  
(please print)

\_\_\_\_\_  
Signature Date

Detach and return this form by mail or in person by **[--date--]** to **[--Election Chairperson--]** at Local 0000 **[complete address]**.

Figure 4

CANDIDATE ELIGIBILITY LETTER - **INELIGIBLE**

[--date--]

[name]

[address]

Dear Brother/Sister [name]:

As you are probably aware, Local 0000 will conduct its regularly scheduled election of officers on [-date-]. At the nomination meeting on [--date--], you were nominated to be a candidate for the office of [name of office].

The Election Committee has reviewed Local 0000 dues records which show that you did not pay dues for the period [--date--] through [--date--] and, therefore, were not a member in good standing prior to the nomination meeting, as required by Article 38, Section 3 of the Constitution. Consequently, the Local 0000 Election Committee has determined that you are not eligible to run for office in the [--year--] election of officers and your name will not appear on the ballot.

If you have any questions about your eligibility status, please call me as soon as possible at [--phone number--].

In solidarity,

[name]

Election Chairperson

# NOMINATIONS

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## CHAPTER 3

**N**ominating candidates for local union office is an important part of the democratic process. As noted earlier, Election Committee members in some local unions may not play any role until after nominations are completed while in other local unions they have certain nomination responsibilities such as checking candidate eligibility. The Constitution and federal law require that members be given a reasonable opportunity to nominate the candidates of their choice. To do this, the local union must not only provide a timely notice of nominations as discussed in Chapter 2, but must also use procedures which give all members a reasonable opportunity to make nominations. Although most local unions hold a nomination meeting, the law does not require that any particular nomination procedure be used. A local union is free to choose any method which provides members a reasonable opportunity to nominate; however, the nomination procedure used must follow the provisions of the Constitution and bylaws.

A member who holds a withdrawal card during the qualification year thereby usually interrupts his or her continuous good standing and disqualifies her/himself from running for executive office. There are, however, three exceptions under which a member who has taken a withdrawal card during the qualification year would not interrupt his or her continuous good standing and would still be qualified to run for executive office. [*Refer to Article 17 of the Constitution.*]

### Requirements

- Various procedures can be used to provide a reasonable opportunity to nominate candidates (including nominations from the floor at a nomination meeting, by mail, etc.) provided that the procedure is fairly applied.
- If nominations are conducted at a meeting, the meeting must be held at a date, time, and place which allow members a reasonable opportunity to attend. Arrangements must be made for members working on different shifts or at distant worksites such as holding more than one nomination meeting, or allowing nominations by mail.
- If nominations are conducted at a meeting, no quorum requirement may be imposed.
- If self-nomination is permitted, a local union must provide another method of nomination so that a member may also nominate someone else.

- Local unions are free to adopt an alternative method of nominating whereby notices are posted in the customary manner announcing that all members are automatically nominated for all offices and requiring members who wish to accept nomination to indicate their intentions in writing in the manner prescribed in the notice of nominations. The notice must announce the deadline for acceptance and the person and address to whom the acceptance should be addressed.

Such alternate procedure may not prevent a member from making a nomination of some other member or members. To meet this requirement, local unions in the United States adopting the alternate procedure that all members are nominated should make it known on the notices to the membership, that any member may nominate any other members he or she desires for any specific office established in the election. Where a member chooses to nominate another member, he or she would be required to notify the local union of his or her nomination in writing, within the nominating period. He or she would also be required to notify the member he or she had nominated for the specific office, so that his or her nominee will be aware of the nomination and of his or her obligation to accept such nomination within the deadline. If a member is nominated and the nominator fails to notify the nominee, such failure will not invalidate or excuse the member's responsibility to accept such office or position to which he or she was nominated within the established deadline period. Approved specific bylaws procedures shall be applied in all instances where such provisions exist.

- A member who originally declines a nomination can subsequently change his or her mind and accept the nomination, providing he or she makes this fact known to the Election Committee prior to the deadline for accepting nominations. Following the deadline of acceptance of nominations, no candidates will be added or removed from the ballot.
- If a nominee is unopposed after the local union has provided reasonable opportunity for nominations, the local union does not have to include that position on the ballot. (If nominees for all offices are unopposed under these circumstances, no election is necessary.) The candidate may be declared elected by acclamation, in accordance with Article 38, Section 17 of the Constitution

## Suggestions

- A local union should not require that members be present at a nomination meeting in order to be nominated.
- The person chairing the nomination meeting should open nominations for each office separately, give all members ample chance to make nominations for each office, and keep order during the meeting.
- After each nomination is made, the person conducting nominations should determine if the nominee is present and accepts nomination in order to prevent any misunderstanding about who is running for which office (especially if someone is nominated for more than one position but is allowed to run for only one office under the Constitution and bylaws).



- If your local union requires a nominee to formally accept a nomination, an acceptance procedure with a reasonable deadline should be established and announced in advance. Any nominee who is unable to attend the nomination meeting should be allowed to submit a written acceptance.
- Election Committee members should keep a complete and accurate list of the name of each nominee and of the office to which nominated.

## Common Pitfalls

- Failing to provide an opportunity to nominate members unable to attend the nomination meeting due to work schedules, distance, etc.
- Failing to provide an adequate time period for submitting nominations if nominations are by mail.

<p><b><u>LMRDA Reference:</u></b></p> <p>Section 401(e) provides that:</p> <p><i>In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates...</i></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 17 Article 38, Section 2</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# WHO MAY RUN FOR OFFICE

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## CHAPTER 4

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

### Requirements

- The local union is without power to add to the qualifications fixed in the Constitution for candidates seeking executive office.
- A retiree cannot accept nomination for any office/position which carries responsibility for grievances or bargaining required by the collective bargaining agreement(s) and/or local union bylaws.
- A candidate may not run for more than one (1) local union Executive Board office on the same ballot. The local union must establish uniform rules to determine the office a candidate's name will appear under on the ballot where multiple acceptance forms are submitted. For example, first nomination pulled from among the acceptance forms.
- "Member in good standing" means any person who has fulfilled the requirements for membership and who has not voluntarily withdrawn, nor been suspended by the union.
- Candidate eligibility requirements must be specific enough so that any member can determine in advance whether or not he or she is qualified to be a candidate.
- All candidate eligibility requirements must be applied uniformly to all nominees.
- Section 504 of the LMRDA prohibits persons convicted of certain crimes from holding union office for a maximum of 13 years following conviction or the end of imprisonment (whichever is later).
- If necessary, review Section 504 at the end of this guide for a list of the crimes which will cause persons to be prohibited from holding office and the circumstances under which a federal court can lift the prohibition. Questions about Section 504 should be directed to your regional office or OLMS.

- A member whose dues have been checked off by the employer may not be disqualified because of a delay or failure by the employer to send the dues to the local union. [See Article 16, Section 26 of the Constitution.]

## Suggestions

- Election Committee members should carefully review the constitution and bylaws or other local union rules to determine the specific candidate eligibility requirements which will be applied in the election.
- If any questions arise about a candidate eligibility requirement, Election Committee members should seek interpretations from the regional office or local union officers.
- After nominations, Election Committee members should review appropriate local union records with the financial secretary (such as dues payment records) to determine whether each nominee is eligible to be on the ballot.
- After checking and making decisions about candidate eligibility, Election Committee members should notify each candidate in writing of their final determination on eligibility. Ineligible candidates should be notified of the specific reason(s) why they are not eligible to hold office. [See Chapter 2, Figures 3 and 4 - Candidate Eligibility Letters]

## Common Pitfalls

- Making eligibility determinations without carefully checking applicable local union or employer records for all candidates.

### **LMRDA Reference:**

Section 401(e) provides that:

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

### **UAW Constitution Reference:**

Article 17  
Article 38, Section 3  
Article 16, Section 26

Article 6, Section 19(3) – Interpretation Section  
Article 38, Section 1 – Interpretation Section

### **Local Union Bylaws Reference:**

# CANDIDATES

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## CHAPTER 5

**A**fter 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, Election Committee members must be knowledgeable about campaign rules and the basic rights of candidates. For example, 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. Election Committee members must not discriminate among candidates and should not appear to favor any current officers who are candidates. Election Committee members must maintain a businesslike relationship with all candidates even if they are personal friends, work associates, or political foes. To avoid misunderstandings and ensure that candidates are treated equally, Election Committee members should develop campaign rules, inform all candidates about them, and enforce the rules uniformly.

### Requirements

- The local union must provide a reasonable period prior to the election during which candidates and their supporters may campaign. What is a reasonable period of time depends upon the circumstances, including the method of nomination, the number of members in the local union, and its geographic area.
- Equal opportunity to campaign must be provided. For example, if one candidate is invited to advocate his or her election 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. Likewise, a local union should not allow one candidate to place a campaign article in the local union newspaper without first notifying other candidates that they too may campaign in this way.
- The local union must provide adequate safeguards to ensure a fair election. Campaign rules must be the same for all candidates.
- Upon making a reasonable request, each candidate is entitled to have his or her campaign literature distributed to members by the local union *at the candidate's expense*. [See Chapter 6 - Distributing Campaign Literature.]
- Once within 30 days before the election, candidates must be allowed to inspect (not copy) a list of members subject to a collective bargaining agreement which requires membership in the local union as a condition of employment. [See Chapter 7 - Inspecting the Membership List.]
- Local union/employer funds and resources of any type may not be used to support the candidacy of any person in a local union officer election (including campaigning on union time by union officials). [See Chapter 8 - Union and Employer Funds.]

- Candidates are entitled to have challengers at the polls and at the tally of ballots. [See Chapter 13 - Challengers.]

## Suggestions

- Your local union may adopt additional campaign rules as long as they do not conflict with the Constitution or federal law.
- Election Committee members should inform **all** candidates of the election rules and procedures as soon as possible. [See Chapter 1, Figure 2 - Election and Campaign Rules]
- Election Committee members should also consider holding a meeting with candidates to discuss all election and campaign rules and to answer any questions.
- Election Committee members should advise candidates about the prohibition against the use of local union and employer funds.
- Current officers and local union employees should be cautioned to take vacation time or a leave of absence, if they are going to campaign during work hours, especially on election day.
- Candidates should be asked how they would like their names to appear on the ballot.
- If Election Committee members decide to allow one candidate to campaign in some way that was not previously announced, they should immediately notify all other candidates that they will be allowed the same privilege.
- Election Committee members should be courteous but firm with all candidates and avoid confrontations if possible.
- Although Election Committee members cannot control candidate behavior, they should encourage candidates to act in a responsible manner and to raise any questions or problems as soon as possible so that Election Committee members have a chance to remedy the matter or change the election rules and procedures.
- Candidates should be advised of any rules for choosing challengers and be encouraged to tell their challengers about election procedures and rules prior to election day.

## Common Pitfalls

- Failing to timely advise all candidates of the campaign rules and any changes which become necessary.
- Failing to take corrective action promptly if one candidate is given an improper advantage over other candidates.

<p><b><u>LMRDA Reference:</u></b> Section 401(c) provides that: <i>Adequate safeguards to ensure a fair election shall be provided . . .</i></p>	<p><b><u>UAW Constitution Reference:</u></b> Article 38, Section 10</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# DISTRIBUTING CAMPAIGN LITERATURE

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## CHAPTER 6

**A**s noted in Chapter 5, 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. In some local union's, the office employee(s) or the Election Committee may be involved in the campaign literature distribution process. If the local union mails campaign literature for candidates, a post office box must be used for the return address. It is not permissible to use the local union address or the candidate's name and address as the return address when mailing campaign literature for candidates. In other unions, a professional mailing service may handle requests from candidates. The regional director must approve the procedure used to mail campaign literature. No matter what the practice, a 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. Election Committee members can avoid many problems concerning the distribution of campaign literature by establishing distribution procedures prior to the campaign period and informing all candidates about them.

### Requirements

- A local union must comply with all reasonable requests by a candidate for distribution of campaign literature at the candidate's expense. Federal law does not define "reasonable request" but the Election Committee members or local union officers should try to comply with all requests to the extent possible, since any refusal might later be determined to have been unreasonable.
- Locals often meet this requirement through an arrangement with a commercial mailing house. This is a fair and efficient approach. Especially in larger locals, commercial mailers are better able to execute the required mailing in a timely way. A commercial mailer's requirements and price are also determined by the market, so it will be the same for all candidates.
- Each candidate must be treated equally with respect to the cost of distributing campaign literature. There is no requirement that the local union distribute literature free of charge. Each candidate must **pay the costs for mailings in advance**.
- A local union should inform all candidates of the procedures for distributing literature in advance of the campaign period.

- A local union may not regulate the contents of campaign literature it is asked to distribute and may not require that it be permitted to read the literature before distribution. The local union may not censor campaign literature in any way, even if the literature includes derogatory remarks about other candidates. A local union's contention that mailing certain campaign literature may constitute libel does not justify a refusal to distribute the literature since the local union is under a legal duty to distribute the material.
- A local union must honor requests for distribution of literature to all members in good standing and must also honor requests for distribution to only a portion of the membership if such distribution is feasible (i.e., just retirees or just active members). The local union is not required to mail to just the first shift or just laid off members.
- A local union may not refuse to distribute literature because it has no staff or a small staff. If necessary, a local union should use a professional mailer in order to comply with any requests. Any costs (for producing address labels, hiring temporary employees, etc.) can be passed on to each candidate requesting a distribution of literature and must be paid in advance of the mailing.
- A local union may not limit the number of mailings which a candidate is permitted to make, so long as the candidate pays.

## Suggestions

- Local union officers should determine how the local union handle requests to distribute literature in prior elections and if any problems occurred.
- Election Committee members and local union officers should decide how to handle requests to distribute campaign literature. If appropriate, make necessary arrangements in advance to use a professional mailer to handle requests.
- One easy way for Election Committee members to comply with requests for distribution is to require that campaign literature be furnished to the local union in the envelopes which are already stuffed, sealed, and contain proper postage.



## Common Pitfalls

- Refusal of a candidate's request to mail literature to less than the full membership if such a distribution is feasible (i.e., just retirees or just active members).

**LMRDA Reference:**

Section 401(c) provides that:

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

**UAW Constitution Reference:**

**Administrative Letter:**

Local Union Triennial Elections (Vol. 50, Letter 2, February 15, 2002)

**Local Union Bylaws Reference:**

# INSPECTING THE MEMBERSHIP LIST

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## CHAPTER 7

In addition to having campaign literature distributed by the local union as discussed in Chapter 6, candidates in local union officer elections also have a right to inspect a list of members (and their addresses) subject to a collective bargaining agreement which requires membership as a condition of employment -- union shop, that is. This right to inspect is limited to once within 30 days before the election and does not include the right to copy the list. In most local unions the financial secretary is the officer who maintains the membership list, and so will be responsible for making the list available to candidates. Election Committee members will not usually be involved. However, to avoid any misunderstandings, Election Committee members should determine from local union officials what procedures will be used to allow inspection and then inform all candidates about them. In addition to permitting inspection, the local union may not discriminate in favor of, or against, any candidate with respect to the use of lists of members.

### Requirements

- A candidate's right to inspect the local union's membership list is limited to a list of members who are subject to a union shop agreement which requires local union membership as a condition of employment.
- Even if local union membership is not required as a condition of employment, for example, in a right-to-work state, the local union may nevertheless decide to allow inspection of its membership list. In the UAW, such an inspection is ordinarily allowed. If the local union decides to do so, it must treat all candidates equally and notify them of the decision to allow inspection.
- 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).
- A local union must allow a bona fide candidate who is seeking to be nominated to run for office the opportunity to inspect the membership list *once* within 30 days before the election.
- The local union is required to maintain the membership list at its principal office but is not required to provide for inspection at other places, such as a satellite local union office or work locations of members.
- Candidates do not have the right to copy the membership list, only the right to inspect and/or compare it with a personal list of members.

- A candidate has a right to a copy of the union’s list of employers only if another candidate uses the union’s list of employers for campaigning.

## Suggestions

- Election Committee members should discuss with the financial secretary, or other local union 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.
- To avoid charges of unequal treatment among candidates, Election Committee members should notify all candidates in advance of the dates, times, and place the list will be available and the person they should contact to make a request for inspection.

## Common Pitfalls

- Allowing one candidate to do more than inspect (such as copy) the union’s membership list without giving other candidates the same privilege.
- Denying a bona fide candidate who is yet to be nominated the right to inspect the membership list within 30 days before the election.

### **LMRDA Reference:**

Section 401(c) provides that:

*. . . every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate ... to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members . . . . Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof.*

### **UAW Constitution Reference:**

Article 37, Section 9

### **Local Union Bylaws Reference:**

# UNION AND EMPLOYER FUNDS

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## CHAPTER 8

**A**lthough local union funds may be used to pay for nomination and election notices and other expenses for conducting the election, federal law *strictly* prohibits the use of union and employer funds to promote the candidacy of any person in a 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 union election.

Unfortunately, the use of union or employer funds is a relatively common problem in local union officer elections. In many cases, however, the improper use is unintentional since the candidates, local union officials, and employers simply do not know the extent of the restriction and that it applies to facilities, equipment, and supplies as well as cash. Election Committee members are presented with a challenge in that they do not control access to a union's or employer's funds, but are still expected to conduct an election in which no such funds are used. Therefore, Election Committee members should make sure that all candidates, local union officials, and local union employees are aware of the restriction on the use of union and employer funds and should be alert throughout the election process for any improper use of funds.

### Requirements

- A union or employer may not contribute money or anything of value (such as the use of facilities, equipment, or supplies) to promote the candidacy of any individual in a local union officer or convention delegate election.
- The restriction on the use of union funds applies to all moneys received by the union by way of dues, assessment, or similar levy.
- The prohibition against the use of union and employer funds applies to any union and any employer, not just the union conducting the election or an employer of the union's members. This is not what you would expect, and comes as a surprise to many candidates. For example, it is improper for a candidate to have campaign literature duplicated free of charge on a copy machine at a small business owned by a relative of the candidate.
- Any expenditure of union or employer funds on behalf of a candidate, even if the amount is small, is technically a violation of federal law.
- The use of union/employer funds or facilities is a violation of federal law even if union officials or the employer do not know about or approve of the use. That is, there is a violation even if the use is unintentional.

- The prohibition against the use of union and employer funds applies to direct expenditures from the union or employer, as well as indirect expenditures, including:
  - campaigning on time paid for by the union or employer
  - use of union/employer owned or leased equipment such as telephones, fax machines, and copy machines
  - use of union/employer supplies such as stamps, paper, and envelopes
  - use of union employees to prepare campaign literature while on union time
  - use of the union letterhead
  - use of union/employer property or facilities, unless open to all candidates on the same terms
  - printing articles which support or criticize an individual's candidacy in a local union newspaper or other publication, as distinct from articles tending to normal business of the local
  - giving free services or special discounts to a candidate customer such as printing, photocopying, etc.
  
- Certain uses of union and employer funds which do not support one person's candidacy over another are acceptable, such as providing the use of equipment, facilities, or publications to all candidates on an equal basis after giving them notice of this opportunity.
  
- Campaigning by union officials which is "incidental" to union business is not a violation of federal law. For example, any campaigning by union officials which occurs as a consequence of conducting legitimate union business, such as shaking hands with members while visiting worksites on official business, is permissible. If a constituent asks a question, you can answer it.
  
- In the UAW, our trademarks and logos, for instance the "UAW Wheel" or "UAW," may be used by candidates in some circumstances. For a longer discussion, see the trademark section of the *Guide for Local Union Financial Officers*.

## Suggestions

- To ensure that candidates are aware of the prohibition against the use of union and employer funds, Election Committee members should issue rules explaining the restrictions. [See Chapter 1, Figure 2 - Election and Campaign Rules]
  
- Election Committee members should advise union officials about the prohibition against the use of union and employer funds. [See Chapter 8, Figure 5 - Union and Employer Funds Prohibition Letter]
  
- Election Committee members should advise the editor of any union-financed newspaper or other publication that the publication should not promote or criticize a candidate during the nomination and election period.
  
- Current officers and union employees should be cautioned to take vacation time or a leave of absence if they are going to campaign during work hours, especially on election day.

## Common Pitfalls

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

**LMRDA Reference:**

Section 401(g) provides that:

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

**UAW Constitution Reference:**

**Administrative Letter (if applicable)**

**Local Union Bylaws Reference:**

**FIGURE 5**

**UNION AND EMPLOYER FUNDS PROHIBITION LETTER**

[--date--]

[--Candidate--]

Local **0000**

[--address--]

Dear Brother / Sister [--name--]:

In [month and year] I was elected to be Chairperson of the Local **0000** Election Committee. As you know, the Local 0000 Election of officers will be conducted on [date].

Since the campaign period is about to begin, I want to take this opportunity to advise you of certain restrictions on the use of union and employer funds for campaign purposes. Specifically, Section 401(g) of the Labor-Management Reporting and Disclosure Act of 1959, as amended, prohibits the use of union and employer funds to promote the candidacy of any person in a union officer election. This prohibition applies to facilities, equipment, supplies, and cash, as well as to campaigning on time paid for by either a union or employer and to the use of the Local **0000** newsletter for campaign purposes.

You should also be aware that the prohibition against the use of union and employer funds applies to any union and any employer, not just to Local **0000** or to the employers with whom Local **0000** has collective bargaining agreements.

I am notifying all Local **0000** candidates of this legal prohibition to make them fully aware of the extent of the campaign restrictions so that any potential problems can be avoided. If you have any questions, please call me at [--phone number--].

Your cooperation is appreciated.

In solidarity,

[name]

Election Chairperson

# RIGHT TO VOTE

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## CHAPTER 9

**T**he opportunity to cast a secret ballot in an officer election is the most fundamental right guaranteed by the Constitution and LMRDA to all union members in good standing. Your responsibility as an Election Committee member is to ensure 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, local unions 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 in order to provide all members a reasonable opportunity to vote.

### Requirements

- The member's dues obligation must be current in order to be eligible to vote. This usually means that a member must not be delinquent in the payment of dues at the time of the voting.
- A member in good standing whose dues have been checked off by the employer may not be disqualified from voting because of any delay or failure by the employer to send the dues to the local union.
- A member who has failed to pay dues can lose good standing. No trial or notice is required.
- Members who work only part time but pay the required dues may not be denied the right to vote.
- Reinstated members who have regained good standing lost because of dues delinquency cannot be restricted from voting.

### Suggestions

- Election Committee members should attempt to have a complete, accurate list of eligible voters available as soon as possible. (Remember that the list of eligible voters may not necessarily be the same as the local union's mailing list.) An accurate voter eligibility list will save time at the polls, result in fewer challenged ballots, minimize confrontations with voters and challengers, and help prevent challenges to the election.
- If a member's name is not on your local union's voter eligibility list or a question arises about a person's eligibility on election day, he or she should be instructed to vote a challenged ballot. [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots] It is always better to allow a person to vote a challenged ballot (which will not be counted if the voter is later



determined to be ineligible) than to risk denying an eligible member (whose name was improperly omitted from the eligibility list) the right to vote.

- Local unions should not be bound by polling hours and locations used in prior elections, particularly if members were denied a reasonable opportunity to vote. Make sure that members’ work schedules and work locations are considered when establishing polling hours and places. (This may entail a bylaw change.)
- If a location is to be used as a polling site for the first time, Election Committee members should visit the location before election day to be sure the area is large enough, well lit, suitable for voting, has adequate parking, and is accessible to members.
- The voter eligibility list should be organized in a way that will be most useful to those checking eligibility on election day, such as alphabetically, by worksite, or by clock number.
- If members will vote for some offices on a geographic or other basis, Election Committee members should ensure that the voter eligibility list accurately reflects in which category each member belongs.
- Election Committee members should review the voter eligibility list carefully just prior to the election to ensure that new members have been added and that any deceased, discharged (if applicable, refer to out-of-work credits: Article 16, Sections 18 and 19) or suspended members have been deleted, etc.

## Common Pitfalls

- Failing to prepare a complete, accurate voter eligibility list.
- Failing to provide adequate opportunity to vote for members working a late shift.
- Not providing multiple voting sites if members are widely dispersed.

<p><b><u>LMRDA Reference:</u></b></p> <p>Section 401(e) provides that:</p> <p><i>... every member in good standing ... shall have the right to vote for or otherwise support the candidate or candidates of his choice .... Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer ... pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote ... by reason of alleged delay or default in the payment of dues.</i></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 6, Section 4          Article 16, Section 5          Article 16, Sections 18 and 19          Article 38, Section 10(a)</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# ELECTION NOTICE

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## CHAPTER 10

**N**ow that nominations are completed and candidates have begun their campaigns, your next step in the election process is to notify members about the election. The Constitution and federal law require that all members be notified of an officer election including the date, time, and place that the voting will occur. Unlike the nomination notice, the notice of election must be mailed to each member at his or her last known home address at least 15 days prior to the election. Election Committee members (or in some cases union officials) will be responsible for preparing the election notice and making the necessary arrangements for mailing the notice. 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, local union officials should not wait until the last minute to begin updating the local union's membership address list.

### Requirements

- A notice of election must be mailed to every member, *including nonworking members*, at his or her last known home address at least 15 days prior to the election.
- The notice of election must specify the date, time and place of the election as well as the offices to be filled. However, if the notice states that the election is the regularly scheduled election of all officers, it is not necessary to list the offices to be filled in the election notice. [See Chapter 10, Figure 6 - Nomination and Election Notice]
- To determine the 15-day mailing period, do not count the day the notices are mailed but count the day of the election. For example, if the election is to be held on October 20, the election notice must be **postmarked** no later than October 5.
- In order to comply with the election notice requirement, the local union must make a reasonable effort to update its membership address list prior to the election.
- An election notice conspicuously placed in the local union's newspaper which is mailed to each member's home address at least 15 days prior to the election satisfies the election notice requirement.
- If the original election notice contains the required information about a possible runoff election, a separate 15-day mailed notice is not necessary for a runoff election. However, members must still be notified in some manner, such as posting at the worksite(s), if it becomes necessary to conduct a runoff election for any office(s).

- It is not necessary to send the 15-day mailed notice or comply with any provisions of the law to conduct an election to fill a vacancy in an executive office for the unexpired term. However, it is still necessary under our Constitution to post the usual notice for 15 days in compliance with Article 38, Section 2 of the Constitution.

## Suggestions

- Election Committee members should obtain a copy of the election notice used for the local union's most recent election. If this notice contains the required information, Election Committee members may wish to use the same format.
- In addition to the date, time, and place of the election and run-off, the election notice should also provide any necessary information about voter eligibility, identification procedures at the polls, availability of absentee ballots (if applicable), and any new election rules. [Refer to Interpretation #1 of Article 38, Section 10(b) of the Constitution.]
- A local union may use a single notice for both nominations and the election and run-off as long as the notice meets the requirements for both the nomination and election notices. [See Chapter 10, Figure 6 - Nomination and Election Notice]
- In a mail ballot election, no separate election notice is necessary if the ballot package is mailed at least 15 days prior to the date by which ballots must be mailed back in order to be counted and the instructions for marking and returning ballots are clear and complete. [See Chapter 18, Figure 22 - *Electing Local Union Officers by Mail*]
- After the election notice is prepared, all Election Committee members should review it carefully to be sure that it contains no mistakes and all necessary information is included.
- Election Committee members should make the necessary arrangements for mailing the election notice with local union officers or staff well in advance of the day the notice is to be mailed. Election Committee members should either mail the election notice or take steps to verify that the election notice was properly mailed by other union officials.
- Although not specifically required by federal law, Election Committee members should mail the election notice by first class mail to ensure that members receive the notice before the election. Consider mailing the notice earlier if first class mail is not used.
- If any election notices are returned undelivered, Election Committee members should attempt to obtain accurate addresses and re-mail these notices promptly.
- In addition to the required mailing, other methods of notifying members, such as distribution of notices at worksites and posting notices on local union bulletin boards are good reminders about the election and helpful in reaching members whose addresses are inaccurate.
- Election Committee members should retain a copy of the election notice for at least one year after the election and keep a record of the mailing date.

## Common Pitfalls

- Using outdated member address records.
- Not mailing election notices to certain membership groups, such as laid-off, new, or retired members.
- Posting the election notice instead of mailing it to all members.

**LMRDA Reference:**

Section 401(e) provides that:

*Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address.*

**UAW Constitution Reference:**

Article 38, Section 2  
Interpretation #1, Article 38, Section 10(b)

**Local Union Bylaws Reference:**

-- S A M P L E --  
**NOMINATION AND ELECTION NOTICE**  
**Local 0000**

**NOMINATIONS**

Nominations for the offices of President, Vice President (or Vice Presidents), Recording Secretary, Financial Secretary, Treasurer, three (3) Trustees, Sergeant-at-Arms and Guide will be accepted from the floor at the **[--date--]** membership meeting at the date, time, and place indicated below. The term of office will run for three years. All local unions, except those in the State of Michigan, affiliated with various State, County, City and Area CAP Councils, having executive officers (State Councils for four (4) top officers), who as a result of their election to those offices will also serve as a delegate to the above mentioned CAP Councils, are required to advise the membership of such designation at the time of their regular elections.

**Date:** [--day and date--]

**Time:** [-- time --]

**Place:** Local 0000 Hall  
[address]

Nominations may also be made in writing and must be received by Recording Secretary **[--name--]** at the Local 0000 office, **[--address--]** no later than **[--time--]** on **[--date--]**.

Candidates must accept nomination at the nomination meeting or, if not in attendance, submit a written acceptance to Recording Secretary **[name]** by **[time]** on **[date]**.

**ELECTION**

The election of Local 0000 officers will be conducted at the date, time and place indicated below:

**Date:** [--day and date--]

**Time:** [--time--]

**Place:** Local 0000 Hall  
[address]

All members in good standing, including retirees, are eligible to vote. Members will be asked to present a Local 0000 membership card, driver's license, or some other form of identification at the polls.

***Include run-off information:***

**Date:** [--day and date--]

**Time:** [--time --]

**Place:** Local 0000 Hall  
[address]

# BALLOTS

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## CHAPTER 11

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

### Requirements

- Instructions on the ballot should clearly state the manner in which members should mark their ballots; for example, “Mark an **X** or  $\sqrt{\quad}$  in the box next to the name of the candidates of your choice.” The ballot should also indicate the maximum number of votes allowed for each office; for example, “Trustee - vote for no more than three.” [See Chapter 11, Figure 7 - Official Ballot]
- A local union may determine the position of candidates’ names on the ballot in any reasonable manner permitted by the local union’s bylaws, consistent with the requirement of fairness and other provisions of federal law. It is normally done by a drawing.
- If systematic rotation is to be used, the Election Committee should arrange for each candidate's name to appear in each rotated position the same number of times as each of his or her opponents. For example, if there are four (4) candidates for President (Candidates A through D) and a thousand ballots are to be printed, the order of names should be changed so that each name appears 250 times in the first place, 250 times in the second place, and so on.
- When the rotation system is followed, the ballots must be distributed to voters in such a way as to make the rotation effective. Thus, following the example given above, the ballot given to the first voter would list “Candidate A” in first position; the second voter would received the ballot listing “Candidate B” in first place, and so on. The order of rotation would, of course, thereafter be followed with all ballots.

- Election Committee members must be able to account for all ballots printed. (The number of ballots printed minus the number of ballots issued to members (cast and spoiled) should equal the number of unused ballots on hand at the end of the election.) Adequate controls and safeguards must be adopted by Election Committee members to protect the ballots such as counting the number of ballots received from the printer, maintaining ballots in a secure place prior to use, and keeping control of ballots and the ballot box at all times on election day.
- All used and unused ballots and other records pertaining to the election must be maintained for one year following the election, unless an appeal is pending in which event they must be preserved until the appeal had been decided and the decision is final. Election records include voter eligibility lists, sign-in registers, tally sheets, and any other documents or records used in the nominations and election.
- Any candidate shall be permitted the right to submit in writing his or her commonly known name, including his or her nickname, if any, to the Election Committee as he or she desires it to appear on the ballot and it shall so appear.
- It is not permissible under the Constitution to give any candidate a designation on the ballot unless two or more candidates for the same office have surnames identical in every way. In the event two candidates for an office do have identical surnames, the Election Committee shall allow appropriate designations for each and, where possible, shall utilize present or former union positions as the designation.

## Suggestions

- Election Committee members should determine the local union's policy concerning the position of candidates' names on the ballot and follow the policy uniformly. Also, determine the candidates' preferred listing of their names in accordance with election rules; be consistent with the use of nicknames, addresses, or other identifying information. The size of the letters, type of print, and spacing of names on the ballot should not favor any candidate.
- The voting instructions on the ballot should clearly advise members that any identifying marks placed on the ballot will result in the ballot being voided. [See Chapter 11, Figure 7 - Official Ballot]
- Any offices for which the officer is a delegate (for instance, to a CAP Council) by virtue of election to office should be clearly indicated on the ballot.
- Election Committee members should make arrangements to provide adequate voting instructions to any non-English speaking members, such as including a translation of the instructions on the ballot in the appropriate foreign language.
- Election Committee members should obtain a ballot used in the most recent officer election which can be used as a model in designing the ballot. Questions about ballot format can be discussed with a printer who should be able to provide expert advice about various options.

- Ballots should be acquired from an outside source such as a printer instead of using the local union's copy machine to make ballots. The printer should be asked to provide an official count of the number of ballots printed.
- Election Committee members should carefully check the ballots and voting instructions for accuracy before and after printing to ensure that each candidate's name is correctly spelled, each office indicates the correct number of positions to be filled, and each candidate is listed for the proper office.
- If the local union intends to use more than one voting location, it is strongly recommended that the paper ballot be numbered consecutively with the numbers appearing on a perforated corner of the ballot in such a way that the corner with the number can be torn off the marked and folded ballot when it is deposited in the ballot box.
- If the local union members approve the use of voting machines, check that they are operating properly, that candidates are listed correctly, and that the machine counters are set at zero before the polls are opened. A supply of paper ballots should be on hand if the machines break down or it becomes necessary to use challenged ballots.
- If voting machines are used, the choice of ballot position again is between a lottery and a rotation system. If it is decided to use a lottery system, the same procedure as explained elsewhere for paper ballots can be used, and the names will appear on the voting machines in the order in which they are drawn. If a rotation system is used, it can only be effective to the extent the local union uses two or more voting machines and then only insofar as names are rotated between the two or more machines. It is impossible to rotate names on a given machine during an election. If, as will usually be the case, the number of candidates for a given office is not evenly divisible into the number of machines used, the Election Committee will have to devise some lottery-like method to determine which candidate shall be given the preferred position on the odd number of machines.
- A sufficient number of voting machines should be used so that the membership will not have to wait any longer to vote on the machine than they would have had they been voting by paper ballot. A local union may consider having a sufficient number of paper ballots on hand in addition to the machines so as to expedite the voting during peak periods of voting.
- The number of ballots ordered/printed should equal the total number of eligible members plus about five percent. Extra ballots may be necessary if voters spoil their ballots and need replacements. On the other hand, Election Committee members should avoid having too many extra ballots printed since an excess of ballots makes it harder to safeguard and account for all ballots.
- If your local union uses more than one ballot, Election Committee members should consider printing them on different colored paper so that they can be distinguished easily.
- If your local union uses ballots which have serially numbered tear-off stubs (corresponding to a numbered voter sign-in register), voters should be advised to remove the stubs before depositing the marked ballots into the ballot box in order to preserve voter secrecy. However, use of serially numbered ballots is not recommended because members often fail to remove the stubs and secrecy may be compromised.



- A blank sample ballot (which is clearly marked “Sample Ballot”) should be posted at the entrance to the polls to familiarize the voters with the ballot format and the candidates for each office. Posting a sample ballot should also reduce the amount of time members spend in the voting booths. (Remember that any official ballots used as samples should be accounted for at the end of the election.)
- Election Committee members should ensure that enough ballots are available at each polling place prior to the start of the election to accommodate the number of expected voters. If different ballots are being used for various geographic, craft, or similar races, make certain each polling area has the correct number and type of ballots on hand. An Election Committee member should be able to quickly provide extra ballots to any polling site if needed.
- Prior to the election, Election Committee members should prepare materials necessary for handling ballots challenged by challengers or Election Committee members because they were cast by persons whose eligibility is in question. [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots]
- After the tally has ended and the election results have been announced, place all used and unused ballots, eligibility lists, sign-in registers, and other election-related records in a box. Election Committee members should seal the box with tape, write their names (and the date) across the tape, and store the box in a safe place for at least one year, "... unless an appeal is pending, in which event they must be preserved until the appeal has been decided and the decision is final."

## Common Pitfalls

- Failing to review the ballot carefully before and after printing to ensure that all candidates' names are listed in the proper order and spelled correctly, including nicknames if appropriate.
- Not safeguarding the ballots from the time they are received from the printer until the time they are put into storage following completion of the ballot tally.
- Failing to account at the end of the ballot tally for all ballots printed.

<p><b><u>LMRDA Reference:</u></b></p> <p>Section 401(c) provides that:</p> <p><i>Adequate safeguards to ensure a fair election shall be provided . . . .</i></p> <p>Section 401(e) provides that:</p> <p><i>The Election Committee Members designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election.</i></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 38, Section 10(a) - (g) Article 38, Section 12</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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**FIGURE 7**

**OFFICIAL BALLOT**

**LOCAL UNION 0000**

**[Date]**

Mark an "x" or a "√" in the box next to the name of the candidates of your choice. Do not put your name, initials, or any other identifying information on the ballot. Ballots containing any identifying information will be voided.

*[Write-in candidates are prohibited.]*

<p style="text-align: center;"><b><u>PRESIDENT</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> William "Bill" Alexander</p> <p><input type="checkbox"/> Albert Boyd</p> <p><input type="checkbox"/> Jane Jones</p>	<p style="text-align: center;"><b><u>RECORDING SECRETARY</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> Jack Adams</p> <p><input type="checkbox"/> Kate Allen</p> <p><input type="checkbox"/> Jim Smith</p>						
<p style="text-align: center;"><b><u>VICE PRESIDENT</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> Deborah "Debi" Collins</p> <p><input type="checkbox"/> Robert Price</p>	<p style="text-align: center;"><b><u>FINANCIAL SECRETARY, TREASURER</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> Patrick O'Neal</p> <p><input type="checkbox"/> Joan Thompson</p>						
<p><b><u>TRUSTEES</u></b> <i>Vote For No More Than Three (3)</i></p> <table style="width: 100%; border: none;"> <tbody> <tr> <td style="width: 50%;"><input type="checkbox"/> Richard Abraham</td> <td style="width: 50%;"><input type="checkbox"/> John "JR" Rogers</td> </tr> <tr> <td><input type="checkbox"/> Carole Jackson</td> <td><input type="checkbox"/> Elaine Standish</td> </tr> <tr> <td><input type="checkbox"/> Mark Peters</td> <td></td> </tr> </tbody> </table>		<input type="checkbox"/> Richard Abraham	<input type="checkbox"/> John "JR" Rogers	<input type="checkbox"/> Carole Jackson	<input type="checkbox"/> Elaine Standish	<input type="checkbox"/> Mark Peters	
<input type="checkbox"/> Richard Abraham	<input type="checkbox"/> John "JR" Rogers						
<input type="checkbox"/> Carole Jackson	<input type="checkbox"/> Elaine Standish						
<input type="checkbox"/> Mark Peters							
<p style="text-align: center;"><b><u>SERGEANT-AT-ARMS</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> Jack Jacobs</p> <p><input type="checkbox"/> Bob Lowell</p>	<p style="text-align: center;"><b><u>GUIDE</u></b> <i>Vote For Only One (1)</i></p> <p><input type="checkbox"/> Joe Anderson</p> <p><input type="checkbox"/> Gary Barker</p>						

# THE POLLING PLACE

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## CHAPTER 12

**E**lection day is the culmination of a lengthy process of planning and preparation that began with the notice of nominations. Weeks before the voting is scheduled to occur the local union membership should have selected the polling location(s) and the hours of voting, taking into consideration whether the location and times provide members an adequate opportunity to vote in secret. As election day nears, additional preparations must be completed since Election Committee members can be faced with any number of unusual or unforeseen situations at polling sites during the voting. Questions concerning voter eligibility may be raised, supplies may run short, members may attempt to mark their ballots outside of voting booths and thereby compromise voter secrecy, candidates or their supporters may violate campaign rules, and disagreements can sometimes surface among the Election Committee members. Boredom can set in during slow times while, on the other hand, the rush of voters during shift changes may be difficult to handle. Fortunately, these situations can be avoided, or at least minimized, by careful planning, preparation, and teamwork by Election Committee members.

### Requirements

- Election Committee members must not only make arrangements for balloting in secret but must also ensure that members actually use the secret balloting facilities provided. Secrecy may be assured by the use of voting machines or, if paper ballots are used, by providing voting booths, partitions, screens, curtains, separate voting rooms, or other arrangements which ensure privacy for the voters. If additional voting booths are necessary, large cardboard boxes placed on tables with one side cut open can be used.
- A sufficient number of blank ballots as well as other supplies should be on hand. [See Chapter 12, Figure 10 - List of Polling Place Equipment and Supplies]
- Election Committee members must ensure that no campaigning occurs in the polling area and that order is maintained at the polls at all times. The polls should be checked periodically to ensure that voters have not left campaign material in the voting area.
- Each candidate must be permitted to have a challenger(s) at the polls and at the tally of ballots. Challengers should be permitted to challenge the eligibility of individual voters. [See Chapter 13 - Challengers.]
- Election Committee members and challengers should not wear campaign buttons, stickers, or other types of campaign apparel in the polling area. However, voters may wear campaign buttons, stickers, or other campaign apparel.
- Before voting begins, the ballot box should be opened in the presence of challengers to make sure that it is empty, and then it should be sealed or locked until the ballot tally begins.

- The polls must be opened precisely at the scheduled time and the polling hours listed in the election notice should be strictly followed. However, any members waiting in line at closing time should be permitted to vote.
- Election Committee members should ask each voter to present identification, check the voter's eligibility, and mark the voter's name off the eligibility list. Each voter should also sign a voter register before receiving a ballot. [See Chapter 12, Figure 11 - Voter Sign-in Register]
- All ballots must be cast personally by the individual members at the established place of voting.
- Except in rare cases where elections are conducted on company time, local union elections are unlike governmental elections inasmuch as there is a high concentration of voters at three times during the day: before a work shift, during lunch hour, and after the work shift. Consequently, procedures must be established which allow for speedy processing of voters on the one hand and proper democratic safeguards on the other. The essence of democratic safeguards in elections is to retain some type of record which will assure, in the event of a challenge, that a complete list identifying each member who voted can be constructed.
- It is difficult to prescribe one best method of identification. Local unions vary a great deal in size and structure and in other important ways which may have an effect on the procedure for conducting an election. What may be a completely efficient and democratic procedure in one situation might be unsuitable in another.
- Many local unions use a polling list as the check-point insofar as identification of the voter is concerned. If the polling list is used as the basic control, the member should be given a ballot upon showing his or her badge and/or presentation of a membership card. *In order for this system to work properly and efficiently, the polling list should be constructed by department and in numerical order.*
- In some local unions, the polling list will be extremely difficult to obtain or, if obtainable, will not be in usable form. Accordingly, proper safeguards can be established by other methods of identification without the use of polling lists. For example: every member might be required to affix his or her signature and badge number to a uniform size card. This card then would be deposited with the Election Committee in return for a ballot. The Election Committee would compare the name and badge number on the card with the member's badge, payroll stub, Social Security number, or other means of identification, and then give the voter his or her ballot after the voter has been identified.
- Either of the aforementioned methods, or a combination of both, would be considered acceptable identification. Whatever method of identification the local union intends to employ should be described in the Notice of Election.
- These procedures create an official record of who voted in the election and help ensure that a member can vote only once.

- Prior to election day, Election Committee members should prepare materials necessary for handling ballots challenged by challengers or Election Committee members because they were cast by persons whose voting eligibility is in question (or by members voting at the wrong location if multiple polling sites are used). [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots]
- If voting occurs at more than one location, a system should be established to prevent a person from voting more than once. For example, a separate voter eligibility list should be prepared for each polling site and each member's name should appear on only one list. The election notice should advise that members must vote at their normal worksite location or they will be required to vote a challenged ballot.

## Suggestions

To help conduct an orderly, problem-free election, Election Committee members should:

- Check with the local union's prior Election Committee members to find out if any problems occurred at the polls and how they can be avoided.
- Obtain approval from the employer well before the election if voting is to occur at the worksite(s).
- Use the space available in the voting area efficiently by carefully planning the placement of the registration tables, voting booths, ballot box, and observer area. Try to achieve a logical and smooth flow of voters during the balloting which will help reduce long lines at registration, aid in insuring ballot secrecy, and allow Election Committee members to more easily control the entire voting process. [See Chapter 12, Figures 8 and 9 - Polling Place Diagrams]
- Arrive at the polls at least one hour before the polls open to set up registration tables, voting booths, etc., and to make sure everything is in order and ready for voters.
- Put up signs if necessary to direct members to the polling area.
- Consider using voting machines which substantially reduce the time needed to count ballots and also present fewer secrecy problems because a curtain is normally part of the machine's operating mechanism.
- Check to see that all voting machines are operating properly, that candidates are listed correctly, and that the machine counters are set at zero before the polls are opened. Be sure to have a supply of paper ballots on hand if machines break down or it becomes necessary to use challenged ballots.
- Take appropriate steps to protect the privacy of the voter when punch card voting equipment or other similar mechanical devices are used, particularly if the surrounding barriers are too low.

- Use more than one registration table if a large number of members vote at a particular site. Divide the eligibility list alphabetically, or by member identification number if appropriate, and clearly mark the registration tables to reflect how the list is broken down.
- Try to 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 Election Committee members and challengers at all times.
- Explain the voting procedures to challengers before the polls open and answer any questions.
- Follow established voting procedures with a goal of moving voters through the polls in the most efficient manner possible in order to avoid confusion, long lines, or other problems.
- Avoid distractions such as eating and engaging in casual conversations and “stick to business” while voters are present.
- Assign specific tasks to each Election Committee member as illustrated in Chapter 12, Figures 8 and 9 - Polling Place Diagrams.
- Pay close attention when marking a voter’s name off the eligibility list. During a busy period it is very easy to mark the wrong name on the list. 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, one election official may remember that John Jones voted but his name is not marked; instead the name of Joe Jones who has now come to vote for the first time has been marked in error.) However, if no explanation is found, direct the voter to cast a challenged ballot.
- Maintain strict control over the supply of unused ballots at all times.
- Ensure that ballots are not issued to voters until a voting booth or private space is available in the voting area and insist that voters cast their ballots in secret. If a rush of voters comes to the polls, direct them to line up at the entrance to the polling area and control their access to the registration tables to avoid confusion.
- Provide another ballot to a voter who spoils his or her ballot while voting. 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. Maintain custody of all spoiled ballots and account for them at the completion of the ballot tally.
- Allow only Election Committee members, voters, and challengers in the polling area.
- Allow challengers to watch the election process, ask questions, and challenge voters’ eligibility. Do not be antagonistic in dealing with challengers.
- Enforce a “no loitering” rule and establish an exit route for members who have already voted. Enforcing this rule uniformly from the outset will greatly reduce confusion at the polls.

- Wear “Election Committee member” badges or some other identification so that voters know to whom they should direct questions or problems.
- Treat voters politely; if necessary, be firm but avoid being overbearing. Keep your composure at all times and remember that you represent your union.
- Keep at least one Election Committee member at the polls at all times; schedule breaks during times when voting is slow.
- Establish procedures to provide assistance on an impartial basis to physically impaired or foreign language speaking voters. For example, physical barriers at the polling site should be eliminated or other arrangements made to allow physically impaired members to vote in secret. If a significant portion of the membership speaks a foreign language, at least one of the Election Committee members should be fluent in that language.
- Be familiar with and enforce any polling place requirements in your local union’s bylaws or the election rules such as a prohibition against campaigning within a specified distance of the polling area.
- Designate one Election Committee member to deal with any news media inquiries. Do not allow media representatives to disrupt polling procedures.
- Remind all Election Committee members not to forget to vote. Election Committee members should follow the same voting procedures as other voters.

## Common Pitfalls

- Not insisting that members use voting booths and allowing them to mark their ballots on walls, the registration table, or other members' backs.
- Failing to provide enough voting booths for the anticipated number of voters.
- Not setting up the polls properly to control the voter flow resulting in confusion, disorder, and disgruntled voters.
- Marking the wrong name off the voter eligibility list.
- Allowing campaigning in the polling area by challengers, Election Committee members, or candidates while they are voting.
- Failing to safeguard the unused ballots and the ballot box at all times.
- Not allowing a member to vote because he or she is wearing campaign buttons, stickers or other campaign apparel.

**LMRDA Reference:**

Section 401(b) provides that:

*Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.*

**UAW Constitution Reference:**

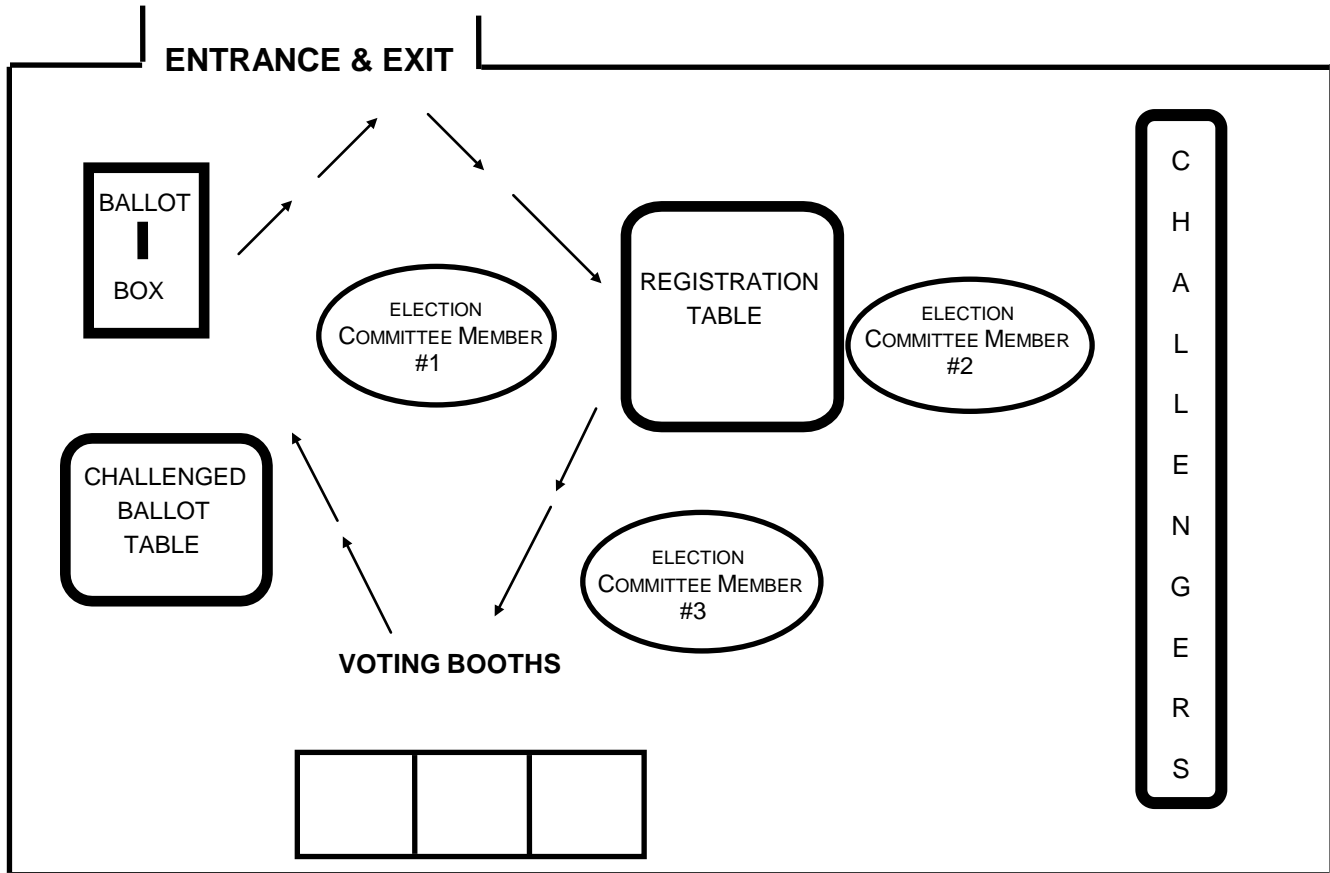
Article 38, Section 2

**Local Union Bylaws Reference:**



FIGURE 8

**POLLING PLACE DIAGRAM**  
**SAME ENTRANCE & EXIT**



Three Election Committee members are used in this suggested polling place model. Signs directing members to the voting area should be posted as necessary and a blank sample ballot should be posted near the entrance to the polls.

**Election  
Committee Member  
#1**

This Election Committee member controls the flow of members into the polls allowing only 3-4 voters into the registration area at a time. Any members waiting to vote should form a line outside the polling area. Election Committee member #1 also monitors the ballot box.

**Election  
Committee Member  
#2**

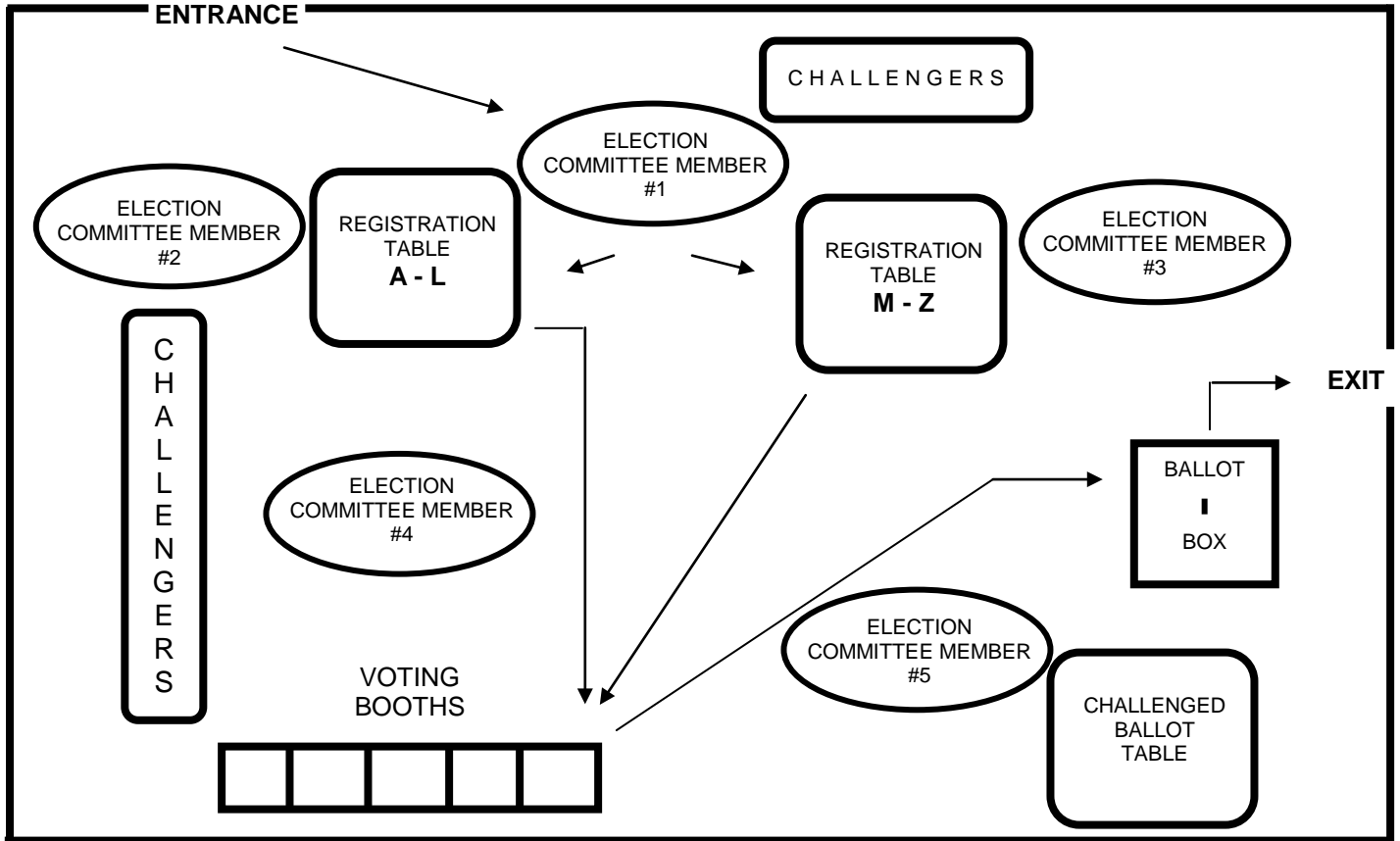
The second Election Committee member, seated at the registration table, checks members' identification, marks members' names off the voter eligibility list, asks members to sign the voter register, and issues ballots.

**Election  
Committee Member  
#3**

The third Election Committee member ensures that members mark ballots only in the voting booths, responds to challenger questions, and monitors their activities. Election Committee member #3 also handles any challenged ballot duties, periodically inspects the voting booths to collect and discard campaign literature which may have been left behind, and directs members to drop their marked ballots into the ballot box and leave the polling area immediately.

FIGURE 9

**POLLING PLACE DIAGRAM**  
**SEPARATE ENTRANCE & EXIT**



Five Election Committee members are used in this suggested polling place model. Signs directing members to the voting area should be posted as necessary and a blank sample ballot should be posted near the entrance to the polls.

**Election Committee Member #1**

This Election Committee member controls the flow of members into the polls allowing only 3-4 voters into the registration area at a time. Any members waiting to vote should form a line outside the polling area.

**Election Committee Members #2 & #3**

These Election Committee members, are seated at two different registration tables with the voter eligibility list divided into two parts (A-L and M-Z). **Both** committee members check members' identification, mark members' names off the voter eligibility list, ask members to sign the voter register, and issue ballots.

**Election Committee Member #4**

This Election Committee member ensures that members mark ballots only in the voting booths, responds to challenger questions, and monitors their activities. Periodically, Election Committee member #4 inspects the voting booths to collect and discard campaign literature which may have been left behind.

**Election Committee Member #5**

This Election Committee member also helps make certain that voting booths are used and directs members to drop their marked ballots into the ballot box and leave the polling area immediately. Election Committee member #5 also hands any challenged ballot duties and monitors the ballot box.

**FIGURE 10**

**LIST OF POLLING PLACE EQUIPMENT AND SUPPLIES**

Election Committee members should plan the layout of the polling site in advance and make arrangements prior to the election to have the necessary equipment and supplies available on election day. At a minimum, Election Committee members should ensure that the following items are at the election site(s) at least one hour before the polls open:

- ⇒ Constitution and Bylaws
- ⇒ Election and Campaign Rules
- ⇒ Ballots
- ⇒ Ballot box(es)
- ⇒ Voting booths, partitions, or large cardboard boxes (with one side cut open) for members to mark their ballots in secret
- ⇒ Voter eligibility list/backup dues records
- ⇒ Voter sign-in register
- ⇒ Challenged ballot envelopes
- ⇒ Challenger log
- ⇒ Identification badges for election officials and challengers
- ⇒ One or more large tables for voter registration and ballot distribution
- ⇒ Chairs for election officials and challengers
- ⇒ Signs for registration tables
- ⇒ Rubber bands, stapler, writing pads, felt tip markers, and tape
- ⇒ Pencils for voters to mark their ballots and pencil sharpeners
- ⇒ Calculator(s)
- ⇒ Boxes for storing election records

Election Committee members should also have the telephone number of the local union office available in case questions about voting requirements or procedures arise at the polling site.

By planning the polling place layout in advance and anticipating the supplies which will be needed, Election Committee members will be able to minimize disruptions at the polling site and conduct an orderly election.

FIGURE 11

# VOTER SIGN-IN REGISTER

Local Union: \_\_\_\_\_ Date: \_\_\_\_\_

Polling Location: \_\_\_\_\_

**MEMBERS WHO CAST BALLOTS IN THE ABOVE-REFERENCED OFFICER ELECTION ARE REQUIRED TO SIGN BELOW:**

- |           |           |
|-----------|-----------|
| 1. _____  | 26. _____ |
| 2. _____  | 27. _____ |
| 3. _____  | 28. _____ |
| 4. _____  | 29. _____ |
| 5. _____  | 30. _____ |
| 6. _____  | 31. _____ |
| 7. _____  | 32. _____ |
| 8. _____  | 33. _____ |
| 9. _____  | 34. _____ |
| 10. _____ | 35. _____ |
| 11. _____ | 36. _____ |
| 12. _____ | 37. _____ |
| 13. _____ | 38. _____ |
| 14. _____ | 39. _____ |
| 15. _____ | 40. _____ |
| 16. _____ | 41. _____ |
| 17. _____ | 42. _____ |
| 18. _____ | 43. _____ |
| 19. _____ | 44. _____ |
| 20. _____ | 45. _____ |
| 21. _____ | 46. _____ |
| 22. _____ | 47. _____ |
| 23. _____ | 48. _____ |
| 24. _____ | 49. _____ |
| 25. _____ | 50. _____ |

Page \_\_\_\_\_ of \_\_\_\_\_

FIGURE 12

## **GUIDELINES FOR CHALLENGED BALLOTS**

The term “**challenged ballot**” refers to a ballot cast by a person whose eligibility to vote has been questioned by Election Committee members, candidate challengers, or members. Unfortunately, the term conveys a negative image and seems to imply that the voter is somehow at fault. Most questions concerning eligibility to vote, however, are the result of misunderstandings, administrative errors, or the failure to prepare an accurate voter eligibility list.

In many cases, voter eligibility questions occur in the midst of the voting and cannot be immediately answered since the records and information necessary to resolve them are not available at the polls. Trying to obtain the information will result in delays or disruptions at the polls and may lead to possible confrontations with impatient members waiting to vote. Usually, the best way to handle any voter eligibility question is to have the person whose eligibility is in question vote a challenged ballot.

By using a double envelope challenged ballot system, the voter whose eligibility is in question can cast a secret ballot and Election Committee members can later review necessary records and resolve the eligibility question. This ensures that the local union will be in a position to count only those ballots which are cast by eligible members. A ballot can be “challenged” for any of several reasons:

- individuals appearing at the polls to vote may be new employees, transferred members from another local, or discharged or laid-off members whose names are not on the local union’s voter eligibility list;
- a member’s payment of dues, fees, or assessments may be in dispute;
- a member may have been scheduled to vote at another polling site and therefore his or her name is not on the eligibility list at the site where the member appears to vote;
- a member’s name may not be on the voter eligibility list due to human or computer error or some other administrative oversight;
- a member who is unknown to the Election Committee members may not have brought appropriate identification to the polls.

If a member’s name appears on the local union’s voter eligibility list, he or she should be presumed to be eligible to vote in the election. Therefore, if such a member’s eligibility is questioned, the person making the challenge must give a specific reason why the member is not eligible to vote. However, if a person’s name is not on the official voter eligibility list, Election Committee members must insist that he or she vote a challenged ballot. **[Election Committee members should remember that no matter what the situation, it is always better to have a person vote a challenged ballot than to risk denying an eligible member the right to vote.]**

## **Challenged Ballot Voting Procedures**

Election Committee members should anticipate the need to use challenged ballots at the polling site and should prepare in advance a supply of the two types of envelopes which will be used (as described below). Prior to the opening of the polls, Election Committee members should thoroughly review the challenged ballot rules and procedures to be followed, including proper use of the double envelope system. After the polls open, if the eligibility of a voter cannot be resolved immediately at the registration table, Election Committee members should “**challenge**” the ballot. The following procedures should be used for all challenged ballots:

- After moving to a less busy place in the polling area, Election Committee members should explain to the voter: (1) why a challenged ballot must be cast, (2) the procedures for casting a challenged ballot using a double envelope system, and (3) that ballot secrecy will be maintained and the challenged ballot will be counted if the eligibility of the voter is later verified.
- The challenged voter should be furnished a blank ballot, a small “Secret Ballot Envelope,” and a large outer “Challenged Ballot Envelope” as illustrated below:

<p><b>Secret Ballot Envelope</b></p> <p>(Do not write your name or other identifying information on this envelope.)</p>
---

3-5/8" x 6-1/2" (No. 6-1/2 envelope)

<p><b>Challenged Ballot Envelope</b></p> <p>Name: _____ Polling Place: _____</p> <p>ID#: _____ Challenged By: _____</p> <p>Reason for Challenge: _____</p> <p>_____</p> <p>Resolution: _____</p> <p>Election Committeeperson: _____ Date: _____</p>
---

4-1/8" x 9-1/2" (No. 10 envelope)

- Election Committee members should record on the larger challenged ballot envelope the voter’s name, other identification information, the reason for the challenge, and the name of the person(s) who raised the challenge.

- Election Committee members should create a separate challenged voter list containing the same information recorded on the outside of the larger challenged ballot envelope. (This will allow committee members to attempt to resolve the challenges before the ballot tally begins even though the envelopes with the necessary information have been deposited in the ballot box and are not available.)
- Election Committee members should place a “C” next to the challenged voter’s name on the eligibility list to indicate that the person voted a challenged ballot. If the person’s name is not on the list, his or her name should be added to the bottom of the eligibility list and a “C” placed next to the name.
- The voter should be directed to a voting booth or private voting area and instructed to mark the ballot, place it in the secret ballot envelope, seal it, put the sealed envelope in the larger challenged ballot envelope, and return it unsealed to an election official.
- Within sight of any challengers, the Election Committee members should ensure that the challenged ballot envelope contains the sealed secret ballot envelope. The voter should then seal the challenged ballot envelope and place it in the ballot box.
- Election Committee members should ensure that members and candidate challengers understand the challenged ballot voting rules and that all procedures are properly implemented to ensure ballot secrecy and allow for resolution of challenged ballots.

### **Use of Challenged Ballots at Multiple Polling Sites**

If a member scheduled to vote at a certain polling site appears at the wrong site (when multiple polling sites are used), Election Committee members should have the member vote a challenged ballot. In order to ensure that a person does not vote more than once, all ballots challenged for this reason must be later cross-checked at the ballot tally against the voter eligibility lists for all polling sites before the challenged ballots are opened and counted.

### **Challenged Ballots for Voters Without Identification**

If a member is unable to present identification and cannot be identified by local union officials, he or she should be requested to return to the polls after obtaining identification. Challenged ballots based on voter identification should be avoided to the extent possible since it is not usually feasible to later resolve the challenge unless the individual whose identity is in doubt returns to the polls or the tally with acceptable identification.

## **Resolution of Challenged Ballots**

If possible, Election Committee members should not wait until the conclusion of the voting to begin resolving challenged ballots and should start obtaining eligibility information while the election is still in progress. By maintaining a separate challenged voter list containing the same information which was written on the outer envelopes, Election Committee members may be able to resolve some or all of the challenges before the ballot box is opened at the conclusion of the voting. Although preliminary decisions about a challenged voter's eligibility can be made by Election Committee members while the election is still in progress, a formal announcement regarding the resolution of any challenged ballots should wait until the start of the ballot tally to allow all challengers to be present. To the extent possible, challenged ballots should be resolved prior to the conduct of the tally to help preserve secrecy.

At the start of the tally of ballots, decisions about the counting of each challenged ballot should be announced to those in attendance and the reason for each decision should be explained to challengers. Election Committee members should record the decision as to whether to count the ballot on the front of the challenged ballot envelope (such as "eligible" or "not eligible - retired") and initial and date it. If challenged ballots are resolved as eligible, Election Committee members should remove (but not open) the secret ballot envelopes from the outer envelopes and mix them together. In order to preserve secrecy, the secret ballot envelopes should then be opened and the ballots removed and mixed in with other uncounted ballots.

All eligible challenged ballots must be counted.

Envelopes containing challenged ballots resolved as not eligible should be left unopened and marked "void." If any challenged ballots cannot be resolved by the end of the tally, Election Committee members should determine whether the number of unresolved challenged ballots could affect the outcome of any race. If not, they should not be opened but maintained with other election records. At the end of the tally, if the number of challenged ballots not yet resolved could affect the outcome of any race, they must be resolved at a later date when more eligibility information becomes available and a final decision can be made as to whether to count each ballot.

Every effort must be made to preserve the secrecy of challenged ballots which have been resolved as eligible. However, in the rare instance where this is not possible (such as in an election where only one challenged ballot is cast and that voter has been determined to be eligible after all other ballots have been counted), it is more important to count a ballot than to preserve secrecy if the ballot could affect the outcome of any race.

All envelopes used in the challenged ballot process, all unopened "voided" challenged ballots, and the challenged voter list should be maintained for at least one year after the ballot tally with other election records.



# CHALLENGERS

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## CHAPTER 13

**E**lection Committee members must understand the role of challengers in the election process in order to be able to deal with them effectively. A challenger is a candidate representative who is stationed at the polls on election day to watch the conduct of Election Committee members and voters to ensure that the election is conducted in a fair and impartial manner. Under federal law and the Constitution, every candidate is entitled to have a challenger at each polling site and at the counting of ballots. Unfortunately, some Election Committee members may object to or resent the presence of challengers because challenger questions or comments may be viewed as challenges to their authority and impartiality. Election Committee members should remember that civic elections traditionally include poll watchers from both parties. Further, the presence of challengers adds integrity to the election process and helps eliminate rumors and groundless accusations which sometime occur when no challengers are present. Elections are less likely to be successfully challenged when challengers are present.

### Requirements

- All candidates have the right to have a challenger at the polls and at the counting of the ballots. If there is more than one polling place, the candidate may have a challenger at each location. If ballots are being counted at more than one location or at more than one table at a single location, a candidate is entitled to as many challengers as necessary to observe the actual counting of ballots.\*
- A challenger must be a member in good standing of the local union.
- Challengers 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 Election Committee members as appropriate.
- Challengers should be allowed to adequately monitor the election process but not compromise, or give the appearance of compromising, the secrecy of the ballot.

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\* In mail ballot elections, Election Committee members must allow candidates to have challengers present when the ballot envelopes are stuffed, labeled, and mailed and during any visits to the post office to pick up and re-mail ballot packages which were returned undelivered. Challengers must also be allowed to accompany Election Committee members when the returned ballots are picked up from the post office, transported to the tally location, reviewed for eligibility, and counted.

- Challengers may not wear campaign buttons, stickers, or other campaign apparel, distribute literature, or engage in campaign activities inside the polling place, including conversations about candidates or the election campaign.
- Challengers 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.

## Suggestions

- Candidates can be required to notify Election Committee members of the identity of their challengers prior to the election; if this requirement is included in the election rules provided to all candidates and is applied uniformly.
- A written list of challenger "do's and don'ts" should be given to each candidate and challenger. [See Chapter 13, Figure 13 - Rules for Challengers]
- Election Committee members should be forthright with challengers, explaining the voting procedures and answering questions. An open exchange of information will lead to mutual trust and a better-run election.
- Designated locations should be established in the polling area where challengers can monitor the voting without any disruption. Election Committee members should not allow challengers to roam the polling area and should be on the lookout for any confrontations between challengers for rival candidates.
- Challengers may inspect the voting booths and the empty ballot box before the polls open, and accompany the ballot box if it is moved to a different location.
- Challengers can be requested to sign a challenger log indicating the times they were present at a specific polling site or the tally of ballots.
- Election Committee members may want to provide "Challenger" badges for challengers to wear while at the polls or tally site.
- Rules governing challengers' conduct should be enforced uniformly. If it is necessary to remove a challenger 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.
- Prior to the start of the ballot tally, Election Committee members should review the counting procedures with challengers including voiding rules.
- When resolving any challenged ballots, Election Committee members should explain to challengers the reason for each decision to count or not count a challenged ballot.
- Challengers should be requested but not required to sign a Ballot Tally Certification at the end of the ballot tally. [See Chapter 14, Figure 18]

## Common Pitfalls

- Not allowing adequate opportunity for challengers to observe the voting process and the counting of ballots.
- Allowing challengers to help Election Committee members during rush times at the polls or to sit in and provide “a break” for Election Committee members.
- Failing to inform challengers in advance about what they will be allowed to do, and not do, at the polls and the ballot tally.
- Permitting challengers to campaign or engage in partisan conversations with voters at the polls.

### **LMRDA Reference:**

Section 401(c) provides that:

*Adequate safeguards to ensure a fair election shall be provided, including the right of any candidate to have a challenger at the polls and at the counting of the ballots.*

### **UAW Constitution Reference:**

Article 38, Section 10(g)

### **Local Union Bylaws Reference:**

## FIGURE 13

# **RULES FOR CHALLENGERS**

1. Each challenger should identify herself or himself to the Election Committee members, sign the challenger log, and indicate which candidate he or she represents. A challenger should notify Election Committee members if he or she is scheduled to be replaced later in the day by another challenger.
2. While present in the polling or tally area, each challenger should wear a badge provided by Election Committee members clearly marked "Challenger" if requested to do so.
3. Challengers, accompanied by Election Committee members, should inspect the voting booths (or voting machines) and the empty ballot box prior to the start of the voting.
4. Challengers 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. Challengers should remain in the area(s) approved by Election Committee members where they are able to see the voter registration and balloting process.
6. Challengers may count the number of voters at the polling site and note their names.
7. Challengers 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 Election Committee members as soon as possible so that any necessary corrective action can be taken.
8. Challengers may challenge the eligibility of any voter by clearly specifying the basis for the objection to Election Committee members. (For example, "I challenge the eligibility of Voter X because he is a new employee.")
9. During the tally of ballots, challengers may challenge the accuracy of the way votes are read from marked ballots and recorded on tally sheets and should state any objection to Election Committee members as soon as possible so that any necessary corrective action can be taken.
10. Challengers may not touch or handle ballots at any time or interfere with the tally process.

# COUNTING BALLOTS

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## CHAPTER 14

In many elections the ballot tally may be a tense and emotionally charged event because of the intensity of the campaign or the perception that races will be close with every vote important. In larger local unions, counting ballots can also be a long and very tedious process. Candidate challengers may raise objections to the way ballots are counted or voided which can lead to additional complications and problems. Before the day of the ballot tally, Election Committee members should decide who will actually count the ballots and the method that will be used. Election Committee members should also agree on the specific rules which will govern the counting and voiding of ballots. If an outside balloting agent will do the counting, Election Committee members must make the appropriate arrangements. If the tally will be conducted by Election Committee members or by other personnel, Election Committee members must ensure that tally sheets and other necessary materials are prepared and available. By adopting an organized and systematic approach to the tally and stressing accuracy during the count, Election Committee members can avoid problems, mistakes, and the need for a recount.

### Requirements

- 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.
- In the absence of a specific local union rule, erasures or "cross-outs" should not cause a vote for a particular office to be voided if the intent of the voter is clear.
- As a general rule, an entire ballot should not be voided unless it contains the voter's name or other marks which identify the voter. However, a local union has the right to establish reasonable rules for determining whether a ballot should be counted such as prohibiting all extraneous marks on a ballot. In the absence of a specific local union rule, marks which could not identify the voter should not cause a ballot to be voided.
- 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. However, all eligible challenged ballots must be counted.
- All candidates for executive offices must be elected by majority vote. The majority required for an office is the first number higher than half of all valid ballots cast for that office. A local union is without power to add to the qualifications fixed by the Constitution of the International Union for candidates for executive offices.

- Election Committee members must preserve voter secrecy for any challenged ballots. [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots]
- For local union Trustees, refer to the Constitution Interpretation #5 of Article 38, Section 2.
- In determining whether a candidate has received a majority of votes cast, Election Committee members should consider only valid ballots.
- Although only valid ballots should be counted in determining the results of the election, Election Committee members should account for all ballots cast in the election, including unused, sample, challenged, spoiled, and totally void ballots.

## Suggestions

- Election Committee members should select a suitable tally site well in advance of election day. Most unions use the polling site as the location for the tally which eliminates the need to move ballot boxes; however, Election Committee members should not feel obligated to count ballots at the polling site or to use the same location used in prior elections.
- The ballot tally should be scheduled for a time as soon as possible after the voting is completed but not until all polls are closed.
- The tally area should be set up to achieve maximum security and efficiency while allowing challengers an opportunity to watch the ballot count and other related activities closely enough to verify the accuracy of the tally. [See Chapter 13 - Challengers.]
- All materials to be used for counting ballots including tally sheets and vote summary sheets should be prepared in advance. [See Chapter 14, Figure 14 - Tally Sheet and Figure 15 - Vote Summary Sheet]
- Election Committee members should have a clear understanding of their duties at the ballot tally and decide in advance upon the counting method (Call or Stack) to be used. [See Chapter 14, Figure 16 - Guidelines for Counting Ballots]
- Election Committee members should ensure that a sufficient number of workers are available at the tally to count the ballots.
- It is important that all tally teams work in a uniform manner. Outline the step-by-step counting and voiding procedures to be used, stress the importance of accuracy, and advise the tally team(s) not to count the ballots in a hurried manner. [See Chapter 14, Figure 16 - Guidelines for Counting Ballots and Figure 17 - Guidelines for Voiding Ballots]
- Prior to the start of the counting, Election Committee members should explain the tally procedures that will be used to challengers and any others in attendance.

- To the extent possible, challenged ballots should be resolved prior to the conduct of the tally and decisions about the counting of each challenged ballot should be announced. Election Committee members should keep a record of decisions made regarding challenged ballots, explaining the reason for each decision to challengers. [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots]
- Because the atmosphere in the tally room can become noisy and tense, Election Committee members must maintain order at all times so that tally teams can work efficiently and can hear the votes being read.
- Election Committee members should supervise the activities of the tally teams, make sure that tally materials are properly distributed and collected, and periodically check with the teams to resolve any problems.
- In order to minimize mistakes, Election Committee members should make sure that the tally teams are given rest breaks.
- Election Committee members should safeguard the voted ballots at all times, even after they have been counted.
- Challengers should be advised to direct questions, problems, or objections to a designated Election Committee member.
- Election Committee members should not permit challengers to touch or handle ballots during the tally.
- In deciding questions of voter intent or voiding, one Election Committee member should be designated as the final judge to ensure that ballots are counted consistently and voided uniformly.
- In order to minimize controversy, Election Committee members may want to adopt a policy that any race decided by less than a certain number of votes will automatically be recounted. This may eliminate the need to recount ballots on a larger scale at a later date.
- One Election Committee member should be designated to deal with news media inquiries. Election Committee members should not feel pressured during the tally to respond to requests for election results from the media and should not allow media representatives to disrupt the ballot tally procedures.
- In the absence of a specific provision in the local union's bylaws, the election rules should provide a method of deciding tie votes such as a run-off election.
- At the end of the tally, Election Committee members should announce the election results in accordance with the Constitution and bylaws. [See Chapter 14, Figure 18 - Ballot Tally Certification]

- Election Committee members should pack and seal all tally sheets, used and unused ballots, voter registers, eligibility lists, and other election materials in boxes. All election records must be kept for at least one year, as required by federal law, unless an appeal is pending in which event they must be preserved until the appeal has been decided and the decision is final.

## Common Pitfalls

- Miscounting votes.
- Not voiding ballots consistently.
- Voiding the entire ballot when only one position is in question.
- Failing to account for all used and unused ballots at the end of the ballot tally.
- Failing to count all eligible challenged ballots.

### **LMRDA Reference:**

Section 401(c) provides that:

*Adequate safeguards to ensure a fair election shall be provided, including the right of any candidate to have a challenger at the polls and at the counting of the ballots.*

### **UAW Constitution Reference:**

Article 38, Section 10(g)  
Interpretation #5, Article 38, Section 2

### **Local Union Bylaws Reference:**



FIGURE 14

BALLOT BUNDLE #

LOCAL 0000  
TALLY SHEET

	INDIVIDUAL VOTES					TOTAL
<b><u>PRESIDENT</u></b>	10	20	30	40	50	
Alexander						
Boyd						
Jones						
Blank						
Void						
<b><u>VICE PRESIDENT</u></b>	10	20	30	40	50	
Collins						
Price						
Blank						
Void						
<b><u>FINANCIAL SECRETARY-TREASURER</u></b>	10	20	30	40	50	
O'Neal						
Thompson						
Blank						
Void						
<b><u>RECORDING SECRETARY</u></b>	10	20	30	40	50	
Adams						
Allen						
Smith						
Blank						
Void						
<b><u>TRUSTEES</u></b>	10	20	30	40	50	
Abraham						
Jackson						
Peters						
Rogers						
Standish						
Blank						
Void						
<b><u>SERGEANT-AT-ARMS</u></b>	10	20	30	40	50	
Jacobs						
Lowell						
Blank						
Void						
<b><u>GUIDE</u></b>	10	20	30	40	50	
Anderson						
Barker						
Blank						
Void						

TALLIED BY: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATE: \_\_\_\_\_

FIGURE 15

LOCAL 0000  
**VOTE SUMMARY SHEET**

**BALLOT BUNDLE RESULTS**

<b>PRESIDENT</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Alexander												
Boyd												
Jones												
Blank												
Void												
<b>VICE PRESIDENT</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Collins												
Price												
Blank												
Void												
<b>FINANCIAL SECRETARY-TREASURER</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
O'Neal												
Thompson												
Blank												
Void												
<b>RECORDING SECRETARY</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Adams												
Allen												
Smith												
Blank												
Void												
<b>TRUSTEES</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Abraham												
Jackson												
Peters												
Rogers												
Standish												
Blank												
Void												
<b>SERGEANT-AT-ARMS</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Jacobs												
Lowell												
Blank												
Void												
<b>GUIDE</b>												
<i>Ballot Bundle #</i>	1	2	3	4	5	6	7	8	9	10	TOTAL	
Anderson												
Barker												
Blank												
Void												

COMPILED BY: \_\_\_\_\_  
 \_\_\_\_\_

DATE: \_\_\_\_\_

FIGURE 16

## GUIDELINES FOR COUNTING BALLOTS

Prior to the day of the ballot tally, Election Committee members should prepare the necessary blank Tally Sheets (Figure 14), Vote Summary Sheets (Figure 15), and a Ballot Tally Certification (Figure 18). Election Committee members should also ensure that the necessary supplies are available at the tally site including pencils, pens, rubber bands, staplers, tape, and a calculator(s).

Used and unused ballots should be safeguarded 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, Election Committee members should seal the ballot box(es) with tape in the presence of challengers and, along with the challengers, initial across the tape. The tally of ballots should begin only after all polling sites have closed.

Election Committee members should plan the layout of the tally site in advance and, if necessary, make arrangements to have additional persons available to help count the ballots, using one or more tally teams. If additional ballot counters are used, Election Committee members must explain the counting and voiding procedures to them prior to the start of the tally and closely monitor each tally team. To prevent confusion, the tally teams should be positioned far enough apart to avoid hearing each other. Tally teams should be instructed to set aside any ballots which contain extraneous marks and those ballots where voter intent is unclear until Election Committee members can rule on whether a vote for a particular office or an entire ballot should be counted or voided. [See Chapter 14, Figure 17 - Guidelines for Voiding Ballots]

If the election was conducted by mail, Election Committee members must first verify voter eligibility before opening and counting the ballots. (See *Electing Local Union Officers by Mail* at the end of this guide.) Prior to the start of counting ballots in either a mail or polling place election, an election official should explain to challengers and any others in attendance the counting procedures that will be used. Ballots should be kept in full view of candidate challengers at all times, but only Election Committee members and any others counting ballots should handle the ballots. Any challenged ballots should be resolved as soon as possible, but prior to the completion of the tally, if possible, in order to preserve ballot secrecy. [See Chapter 12, Figure 12 - Guidelines for Challenged Ballots]

As outlined on the next two pages, Election Committee members generally use one of two different methods to count ballots. Either the **Call Method** or the **Stack Method** is acceptable. Whichever method is used for the ballot tally, Election Committee members must ensure that the ballots are counted accurately, decisions regarding the voiding of ballots are consistent, and ballots are properly safeguarded throughout the tally process.

**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 ensure 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. Election Committee members should open the ballot box in the presence of challengers, remove and unfold all marked ballots, and place them in bundles of 50 or 100, numbering each bundle #1 of \_\_, #2 of \_\_, etc., to ensure 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 (Figure 14). 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:

O'Neal			
Thompson			

- 3. If voter intent is unclear for any office(s) on a ballot, Election Committee members 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* (Figure 15) where grand totals should be calculated.

9. Election Committee members should complete the *Ballot Tally Certification* (Figure 18) 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 Trustee positions). However, this method can be more time-consuming than the Stack Method.

## **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. Step-by-step instructions for the Stack Method follow:

1. Election Committee members should open the ballot box in the presence of challengers, remove and unfold all marked ballots, and place them in bundles of 50 or 100, numbering each bundle #1 of \_\_, #2 of \_\_, etc., to ensure accuracy and provide a means of control. Any ballots voided in their entirety should be removed and set aside.
2. Election Committee members 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, Election Committee members 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 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 ballots 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* (Figure 15) where grand totals should be calculated.
9. Election Committee members should complete the Ballot Tally Certification (Figure 18) 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, "... unless an appeal is pending, in which event they must be preserved until the appeal has been decided and the decision is final."

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, Election Committee members may choose to count all ballots at once rather than in bundles.

## **RECOUNTS**

1. Any candidate may request a recount from the Election Committee.
2. The Election Committee, in the exercise of sound judgment based primarily upon the closeness of the vote and the number of ballots cast, may grant or deny a recount.
3. If the candidate who is requesting the recount is dissatisfied with the decision of the Election Committee, he or she has recourse by appealing to the local union membership.
4. Local unions should consider adopting a general rule whereby in any election where the difference between the candidate requesting a recount and the candidate receiving the highest number of votes is less than 1% of the total votes cast for that office, the Election Committee automatically grants such a recount upon request. Even if the local should adopt such a rule, however, a candidate could request a recount, though the difference is more than 1%, in the normal way and if the Election Committee denies the candidate's request, the candidate could appeal the denial to the membership. In recounting the ballots, the same general procedure used in the original counting should be employed. The time limits which govern election protests are applicable.
5. The Constitution provides that all ballots must be preserved for one year after the close of the election. A statement by the Election Committee shall be made with regard to the election rules (i.e., the official canvass) and the disposition of the ballots before the ballots are destroyed.
6. During this period the ballots should be kept in a safe place where they can be locked and sealed, and all challengers should be notified of the place of safekeeping and be entitled to be present when the ballots are originally locked and sealed and later when the seals are broken.
7. While the Constitution specifies ballots must be preserved for a minimum of one year, if there is any question under consideration as to the validity or propriety of the election, or any appeal in progress growing out of the election, the local union must continue to preserve the ballots indefinitely until any dispute or appeal is finally settled.
8. Where voting machines which do not print tapes are used, the requirement for preserving ballots for one year can be met by having the Election Committee copy off the voting machine totals, in the presence of such challengers as wish to be present, on tally sheets and certify these sheets as the machine totals. The challengers should be requested to also sign these tally sheets.

## FIGURE 17

# **GUIDELINES FOR VOIDING BALLOTS**

In local 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 - Figure 16.] 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. Challengers may challenge the way the ballot is marked or Election Committee members themselves may have questions about a voter's intent with respect to a particular office. It is the responsibility of Election Committee members to decide whether a vote for a particular office or an entire ballot should be counted or voided.

Most importantly, Election Committee members' decisions regarding voter intent and voiding ballots must be uniform and consistent. To achieve this, Election Committee members should discuss ballot-voiding rules prior to the tally. Usually, one Election Committee member should be designated as the final judge in these decisions to ensure 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. Election Committee members should count a vote even if the mark strays outside the box next to a candidate's name. In the absence of specific local union rules, marks which do not identify the voter should not cause a ballot to be voided and erasures or "crossouts" should not cause a vote for a particular office to be voided if the intent of the voter is clear. Election Committee members must void a ballot in its entirety if it contains any marks which identify the voter.

To void ballots properly, the following procedures are recommended:

- n During the tally process, ballots which are voided in their entirety should be marked "VOID" on the front and initialed by Election Committee members using a distinctive color ink pen. A brief description of the reason for voiding the ballot (no votes for any candidate, identifying marks, etc.) should be written on the back of the voided ballot. All totally void ballots should be placed in a separate envelope.
- n If voter intent is not clear for any office or if too many candidates have been selected for one or more positions, Election Committee members 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.
- n If a voter fails to vote for any candidate for a position, Election Committee members should ensure 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.
- n If Election Committee members 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 ensure that the vote will be counted for the same candidate in case of a recount.

Election Committee members should recognize that decisions about voiding ballots are often close calls which require judgment and impartiality. These 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, Election Committee members can minimize controversy at the ballot tally and reduce the need for recounts.



**FIGURE 18**

## **BALLOT TALLY CERTIFICATION**

Election Committee members 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 on the next page, 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, Election Committee members 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. Election Committee members should also enter vote totals for each candidate in the *Election Results* section, entering “None” where appropriate. Before entering the tally results, Election Committee members should double check the figures with vote totals on the tally sheets and the vote summary sheet for accuracy.

Election Committee members should sign the *Ballot Tally Certification* and request challengers to sign in the appropriate spaces. However, challengers are not required to sign the certification if they choose not to do so.

Election Committee members may wish to post copies of the completed certification at the local union hall and the worksite(s), give copies to candidates, and provide a copy to local union officials when making their final report on the election. The original certification should be kept by the local union with the ballots and other election records for at least one year, as required by federal law, unless an appeal is pending. If such an appeal is pending, the relevant records must be kept by the local union until final resolution of the appeal is reached.

# LOCAL 0000 - BALLOT TALLY CERTIFICATION

Date of Election: \_\_\_\_\_ Tally Location: \_\_\_\_\_

The undersigned acted as Election Committee members or Challengers 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 indicted below.

**BALLOT RECAP**

**NUMBER OF BALLOTS**

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>
<b><u>President</u></b>	William "Bill" Alexander	_____
	Albert Boyd	_____
	Jane Jones	_____
	- Blanks -	_____
	- Void -	_____
<b><u>Vice President</u></b>	Deborah "Debi" Collins	_____
	Robert Price	_____
	- Blanks -	_____
	- Void -	_____
<b><u>Financial Secretary, Treasurer</u></b>	Patrick O'Neal	_____
	Joan Thompson	_____
	- Blanks -	_____
	- Void -	_____
<b><u>Recording Secretary</u></b>	Jack Adams	_____
	Kate Allen	_____
	Jim Smith	_____
	- Blanks -	_____
	- Void -	_____
<b><u>Trustees</u></b>	Richard Abraham	_____
	Carole Jackson	_____
	Mark Peters	_____
	John "JR" Rogers	_____
	Elaine Standish	_____
	- Blanks -	_____
<b><u>Sergeant-At-Arms</u></b>	Jack Jacobs	_____
	Bob Lowell	_____
	- Blanks -	_____
	- Void -	_____
<b><u>Guide</u></b>	Joe Anderson	_____
	Gary Barker	_____
	- Blanks -	_____
	- Void -	_____

<b><u>ELECTION COMMITTEE MEMBERS</u></b>	<b><u>CHALLENGERS</u></b>
_____	_____
_____	_____

# APPEALS AND NEW ELECTIONS

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## CHAPTER 15

### Appeal from Decision of Election Committee on Validity of Ballots

Where the difference between the winning candidate and the runner-up, as reported by the official canvass, is small enough so that it could have been affected by a decision of the Election Committee to count certain challenged ballots or to reject certain ballots in the counting procedure over the objections of a candidate's challenger, the candidate feeling her/himself aggrieved by the Election Committee's decision, may appeal that decision to the local union membership. In that event, the ballots in question (see Figure 12) will have been preserved in separate sealed envelopes and shall be produced before the membership for their consideration.

### Charges that Fraud or Other Misconduct Have Made the Whole Election Void

Any candidate or his or her challenger may, at the conclusion of the counting, challenge the entire election. This challenge should be made to the Election Committee immediately after the final counting of the votes. In no event will the challenge be considered if it is not made within seven (7) days of the closing of the polls, or at the next membership meeting, whichever occurs later. A person making the challenge should specify the reasons for the challenge. *"A protest must either be in writing, or made at the membership meeting. If written, the protest must be actually received by the local union recording secretary before the deadline."* The Election Committee may consider the challenge and shall make a recommendation to the next membership meeting where it must report the results of the election, but the Election Committee cannot itself take action on the challenge. The membership shall consider the challenge and the recommendations of the Election Committee and if convinced that the election was fraudulently or improperly conducted to such a degree as to invalidate it, may, by a majority vote, order a new election.

A well substantiated showing of fraud, or of extremely loose practices in conducting the election, should be required by the membership before voting to invalidate an election and order a new one.

In some cases a minority of the membership of a local union may be in a position to overrule the will of the majority in passing judgment upon the report of the Election Committee. A situation may arise when a group of officers is elected by the votes of a thousand or more yet when the Election Committee reports to the membership, a group of 50 or 75 might constitute the majority of that membership meeting and reject the Election Committee's report on some very minor, technical, or insubstantial grounds, thus frustrating the will of the majority. Accordingly, certain safeguards must be taken to protect the democratic decision of the majority against minority action.

No new election for an Executive Office should be conducted in a local union until a complete report of the circumstances leading the membership to order a new election, as well as the official minutes of the membership meeting where the members took that action, are submitted to and approved by the International President.\*

Upon the submission of such a case to the International President, he or she will either make a decision on the basis of the record submitted to him or her, or, if the facts are sufficiently contradictory to warrant the step, may designate a representative to conduct any investigation or hearing deemed necessary, in accordance with the procedures of Article 33, Section 3(d) of the Constitution, to make a recommendation to him or her.

The International President may make a decision approving the action of the membership in which case the new election shall proceed, or may make an interim decision overruling the action of the membership in which event, the matter shall be referred to the International Executive Board for final decision.

During any period when the International President (or the International Executive Board) is considering the propriety of local union action in ordering a new election, the offices which were voted upon in the election which is being questioned, shall be temporarily occupied by those candidates who would have been elected on the basis of the official canvass if the election had not been challenged. During the period of any such appeal, the ballots of the election must, of course, be preserved until the matter is finally settled as previously stated in Chapter 11.

<p><b><u>LMRDA Reference:</u></b></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 38, Section 3(d) * Article 38, Sections 11 &amp; 12 Article 49</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# PROCEDURE FOR ELECTING LOCAL UNION DELEGATES TO UAW CONSTITUTIONAL CONVENTIONS

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## Chapter 16

### A. GENERAL INFORMATION

This section is intended to set forth the procedure a local union should follow in electing delegates to the Constitutional Convention of the International Union. Since most of these procedures are identical with those already fully set forth in relation to the election of local union officers, this section will be confined to a discussion of the few differences in procedure between local union officer elections and delegate elections. On those phases of the procedure which are identical, no comment will be made. The procedure set forth in previous sections of this guide must be modified in connection with delegate elections. **However, the procedures set forth regarding "Election Notice" and "Inspecting the Membership List" must be followed in these delegate elections.**

### B. DATE OF ELECTION (Delegate Elections)

The local union membership shall elect an Election Committee to conduct their elections for delegates to the Constitutional Convention. Such elections may also be conducted by the local union standing Election Committee. The time, date and location of the election shall be established pursuant to the provisions of Article 8 of the Constitution and this guide. Except as otherwise approved by the International Executive Board, the date must be set after the issuance of the Convention Call and upon receipt by the local union of their credentials and the number of delegates entitled, allowing time for nominations and preceded by at least seven (7) days notice. At least seven (7) days must elapse between nominations and the election. A fifteen (15) day notice of the election must be given by posting and mailing in the same manner set forth for executive office elections, as explained in Chapter 10 of this guide. The election must be scheduled to make the results available at least twenty-one (21) days prior to the opening of the convention in order that names of delegates elected can be submitted to the International Union within the time prescribed in the Constitution.

### C. NOMINATIONS AND ELIGIBILITY

In order to be eligible to serve as a delegate to a UAW Constitutional Convention, a member must have been in continuous good standing in the International Union for twelve (12) months immediately preceding the first (1st) day of the month in which the convention is held and shall have been a member of his or her local union for three (3) months immediately preceding the first (1st) day of the month in which the convention is held.

## **D. ALTERNATE DELEGATES**

Only the local union membership or joint councils in amalgamated local unions may decide whether or not the local union will elect alternate delegates. If the local union membership decides to elect alternate delegates (which may be less, but not more, than the number of legal delegates from that local union) they may do so in one of two ways:

- (1) By providing in advance of the election that a certain number of runners-up in the contest for delegates shall be alternates, in the order in which they finish. If the local adopts this method, it must specify in advance of the election, whether the voter will be allowed to vote for a total number of candidates equal to the total of delegates and alternates to be elected, or only for a number of candidates equal to the number of delegates to be elected.
- (2) By providing in advance of the nominations for nominations of candidates for alternate delegate. In the event the local union membership follows this course, the membership action must provide for the number of alternate delegates to be elected. These alternate delegates, having been nominated separately, shall be listed on the ballot under either the separate heading of candidates for alternate delegate, or shall be listed on a separate ballot to be voted by each member at the same time. If voting machines are used, the candidates for alternate delegate shall be listed in a separate section of the voting machine from the candidates for delegate and shall appear under a separate heading.

## **E. CERTIFICATION OF ELECTION**

Candidates for convention delegate, and candidates for alternate convention delegate, shall be elected by plurality vote. Regardless of the number of nominees, the candidates having the greatest number of votes for delegate, or for alternate delegate, shall be considered elected. It is unconstitutional for a local union to require a majority vote for election of delegates or alternate delegates.

The local union should provide a fair and neutral method to resolve a tie for the last position of the local union's last delegate entitlement in its bylaws, or by an election rule administered by the Election Committee that has been approved by the membership prior to the election.

## **F. APPEALS AND NEW ELECTIONS**

The appeal procedure in delegate elections differs from that outlined in Chapter 15 of this guide in that an appeal must go to the Convention Credentials Committee. An appeal from a delegate election must be submitted to the Convention Credentials Committee, in care of the International Secretary-Treasurer, by whichever of the following dates occurs first: (1) Not more than seven (7) days after the local union delegate election or (2) not less than twenty-one (21) days prior to the convening of the convention. These protests shall be referred to the Credentials Committee and the Credentials Committee may waive failure to comply with the foregoing time limitation where the interests of justice would require.

## G. ELECTION PROTESTS AND THE CREDENTIALS COMMITTEE

The Credentials Committee, under Article 8, Section 17 of the Constitution, decides and reports to the full convention all election protests which have been received. Under the Constitution, these protests can raise any subject matter related to the election of that local union's delegates including, but not limited to, the conduct of a campaign, or the use of union or other employer assets.

All other election protests of elections held under Article 10 covering International Officers and Regional Directors, even though not touching the election of an identifiable delegate or delegates were required to be filed with the Credentials Committee, which has *exclusive* jurisdiction. The Credentials Committee in turn reports its actions to the convention for its decision. So, any protest of the conduct of a campaign for these offices, or of any matter said to affect the election must be filed with the Credentials Committee. There are no exceptions.

While the Credentials Committee sits, it has full authority to receive such election protests, evaluate them and report its findings and recommendations to the full convention. The convention itself is the final authority, and so makes the final disposition of all election protests, whether presented by the Credentials Committee or even when directly raised on the floor of the convention.

The adoption of the final report of the Credentials Committee by the convention immediately closes all protests of other questions concerning the election of delegate, Regional Director or International Officer, *regardless of the allegation*. The delegates then proceed to immediate vote, which when tabulated, is promptly announced, and in the case of Regional Director elections, is reported as informational matter to the full convention.

No further protests or appeal exists or is possible under the Constitution. Neither the International Executive Board, nor any officers, has authority to entertain further any election protest.

Any election issue which might have been presented to the Credentials Committee or the convention, but was not, is completely barred at this point, regardless of the excuse. The elections of International Officers and Regional Directors are final upon tabulation and announcement of the relevant vote to the voting delegates.

<p><b><u>LMRDA Reference:</u></b></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 8 Article 8, Section 15 Article 8, Section 17 Article 10</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# ELECTION OF COMMITTEEPERSONS AND STEWARDS

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## Chapter 17

### A. GENERAL PROCEDURES

The Constitution allows a local union wide latitude in electing stewards and/or committeepersons and non-executive officers (such as Executive Board Members-at-Large). The Constitution does demand that stewards and/or committeepersons must be democratically elected (see Article 45, Section 2 of the Constitution). Federal law does not regulate these elections unless, under the local union's bylaws, the winner serves on the local union's Executive Board with voice and vote.

It is extremely difficult to be specific with regard to most of the phases of committeepersons or stewards' elections. However, each local union, being aware of its own rules within the general framework required by the constitutional mandate that these elections be democratic, should set forth its own election procedures for conducting the stewards and committeepersons' elections. These procedures should be adopted by the general membership or delegate body of the local union as a single resolution, or as a part of the local union's bylaws. Insofar as possible, each of these local union procedures should cover in a definite way the various aspects of elections as covered elsewhere in this booklet. The few specific requirements contained in this section must be incorporated in a local union's committeepersons - steward's election procedure.

### B. NOTICE OF ELECTION

One basic democratic safeguard which must be provided is that of proper notice. The Constitution does not specify the amount of notice that must be given but it is strongly recommended that at least seven (7) days notice must be given for nomination and/or election of committeepersons and stewards. In some cases, local unions prefer to conduct nominations and elections of stewards and/or committeepersons at the same meeting. This is permissible providing that the membership has been duly notified of this fact.

### C. ELIGIBILITY TO RUN FOR OFFICE

Local unions are free to establish reasonable eligibility requirements for stewards and committeepersons. The good-standing requirements can be for a period of less than one (1) year but not more than one (1) year. Whatever reasonable eligibility requirements the local union establishes, it should be clearly defined in the local union bylaws and subject to the terms of the collective bargaining agreement.



## **D. SECRET BALLOT AND THE RIGHT TO CHALLENGE**

In the actual conduct of the election, the local union procedure must ensure each member the right to vote by secret ballot, though ballots need not be printed or copied – they may be blank pieces paper upon which the member may write the name of the candidate or candidates for whom he or she is voting.

The local union procedure should ensure that each candidate may designate a challenger to observe all phases of the voting and counting of ballots.

## **E. NECESSITY OF MAJORITY OR SIMPLE PLURALITY FOR ELECTION**

The local union must itself decide whether a majority vote, or a simple plurality vote, is necessary for election of a committeeperson or steward. It is extremely important that the local union in advance of the election, either by adoption of an appropriate bylaw or by specific action of a membership meeting, makes a definite decision as to whether a majority or plurality vote is required. It is also important that a local union follow the same pattern in all committeepersons or stewards' elections though the membership may reverse itself, in which event, the new decision must be followed until again reversed. The essential point is that during any given period of time, all stewards or committeepersons' elections conducted by a local union must be decided by either a plurality or a majority vote. It is not permissible for some such elections to be decided by majority vote and others by a plurality vote.

## **F. PROTESTS**

If a new election for committeeperson or steward is ordered as the result of a protest and this order is appealed, no such election shall be held until the matter has been submitted to and an order thereon received from the International President. Unlike an executive officers' election, if a new election is ordered for committeeperson by the membership and this order is not appealed, the local union must conduct a new election.

## Common Pitfalls

- Not clearly defining the voting/eligibility rights of members (i.e., geographically defined districts, division/shift-wide elections).
- Not clearly defining the voting rights of part-time/temporary employees, job bank employees, or laid-off employees.
- Not reviewing applicable collective bargaining agreement for candidate eligibility.

<p><b><u>LMRDA Reference:</u></b></p>	<p><b><u>UAW Constitution Reference:</u></b></p> <p>Article 45, Section 2 Article 45, Section 5</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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# ELECTING THE ELECTION COMMITTEE

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## Chapter 18

The Constitution provides that each election for executive officers, as set forth in Article 38, Section 1 of the Constitution, conducted by a local union **must** be held under the supervision of a democratically elected Election Committee. [*Local union executive officers are: President, Vice-President/s, Recording Secretary, Financial Secretary, Treasurer, three Trustees, Sergeant-at-Arms and Guide.*]

- The Election Committee may serve for a specified term, in which case it would supervise all general elections held during its term, or a special Election Committee chosen by the local union to supervise a particular election. In either case, the Election Committee **must** be democratically elected by the membership of the local union. The vote for the Committee should be by secret ballot at a membership meeting. In the case of an amalgamated local union having a constitutionally established joint council, however, the Election Committee should be elected in the same manner by the membership of the joint council. *It is recommended that at least seven (7) days notice be posted of the meeting at which the Election Committee is to be elected.*
- The Election Committee shall include only the members elected thereto. The president of the local union may **not** serve as an ex-officio member. No member of the Election Committee shall be eligible to run for office, or to serve as a challenger for a candidate for office, in any election which the committee supervises. A member of the Election Committee who wishes to run for office in an election which that committee will supervise, must, immediately subsequent to nominations for that office, resign from the Election Committee.

<p><b><u>LMRDA Reference:</u></b></p>	<p><b><u>UAW Constitution Reference:</u></b> Article 38, Section 10(c)</p> <p><b><u>Local Union Bylaws Reference:</u></b></p>
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**FIGURE 19**

**Labor-Management Reporting and Disclosure Act of 1959,  
As Amended  
Title IV - Elections**

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**Terms of Office; Election Procedures**

(29 U.S.C. 481)

**SEC. 401.**

- a) Every national or international labor organization, except a federation of national or international labor organizations, shall elect its officers not less often than once every five years either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot.
- b) Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.
- c) Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate(s) expense campaign literature in aid of such person(s) candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution. Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. Adequate safeguards to ensure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.
- d) Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils, shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot.

- e) In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to Section 504 and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The Election Committeemembers designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title.
- f) When officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of this title. The officials designated in the constitution and bylaws or the secretary, if no other is designated, shall preserve for one year the credentials of the delegates and all minutes and other records of the convention pertaining to the election of officers.
- g) No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.
- h) If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with the Administrative Procedure Act that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this title.
- i) The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in sub-section (h).

## **Enforcement**

(29 U.S.C. 482)

### **SEC. 402.**

- a) A member of a labor organization -
- (1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or
  - (2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation, may file a complaint with the Secretary within one calendar month thereafter, alleging the violation of any provision of Section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the election and removal of officers). The challenged election shall be presumed valid pending a final decision thereon (as hereafter provided) and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.
- b) The Secretary shall investigate such complaint and, if he finds probable cause to believe that a violation of this title has occurred and has not been remedied, he shall, within sixty days after the filing of such complaint, bring a civil action against the labor organization as an entity in the district court of the United States in which such labor organization maintains its principal office to set aside the invalid election, if any, and to direct the conduct of an election or hearing and vote upon the removal of officers under the supervision of the Secretary and in accordance with the provisions of this title and such rules and regulations as the Secretary may prescribe. The court shall have power to take such action as it deems proper to preserve the assets of the labor organization.
- c) If, upon a preponderance of the evidence after a trial upon the merits, the court finds--
- (1) that an election has not been held within the time prescribed by Section 401, or
  - (2) that the violation of Section 401 may have affected the outcome of an election, the court shall declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary and, so far as lawful and practicable, in conformity with the constitution and bylaws of the labor organization. The Secretary shall promptly certify to the court the names of the persons elected, and the court shall thereupon enter a decree declaring such persons to be the officers of the labor organization. If the proceeding is for the removal of officers pursuant to sub-section (h) of Section 401, the Secretary shall certify the results of the vote and the court shall enter a decree declaring whether such persons have been removed as officers of the labor organization.
- d) An order directing an election, dismissing a complaint, or designating elected officers of a labor organization shall be appealable in the same manner as the final judgment in a civil action, but an order directing an election shall not be stayed pending appeal.

## **Application of Other Laws**

(29 U.S.C. 483)

### **SEC. 403.**

No labor organization shall be required by law to conduct elections of officers with greater frequency or in a different form or manner than is required by its own constitution or bylaws, except as otherwise provided by this title. Existing rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by the provisions of this title. The remedy provided by this title for challenging an election already conducted shall be exclusive.

FIGURE 20

## Labor-Management Reporting and Disclosure Act of 1959, As Amended

### Title V - Safeguards for Labor Organizations

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**NOTE:** *Keep in mind that in interpreting this law, the Department of Justice, Criminal Division, treats the list of disqualifying crimes as illustrations, not an exhaustive list.*

#### Prohibition Against Certain Persons Holding Office

(29 U.S.C. 504)

##### **SEC. 504.**

- a) No person who is or has been a member of the Communist Party<sup>†</sup> or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, 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 members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve-
- (1) as a consultant or adviser to any labor organization,
  - (2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any Labor organization,
  - (3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

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<sup>††</sup> The U.S. Supreme Court on June 7, 1965, held unconstitutional as a bill of attainder the Section 504 provision which imposes criminal sanctions on Communist Party members for holding Union office (U.S. v. Brown, 381 U.S. 437, 85 S. Ct. 1707).



- (4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or
  - (5) in any capacity, other than in his capacity as a member of such labor organization, that involves decision-making authority concerning, or decision-making authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under Section 994(a) of title 28, United States Code, determines that such person(s) service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the court shall hold a hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court(s) determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this sub-section.
- b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.
  - c) For the purpose of this section -
    - (1) A person shall be deemed to have been "convicted" and under the disability of "convicted" from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.
    - (2) A period of parole shall not be considered as part of a period of imprisonment.

d) Whenever any person -

- (1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and
- (2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person(s) conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person(s) conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person(s) conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.

## FIGURE 21

# CHECKLIST FOR CONDUCTING LOCAL UNION OFFICER ELECTIONS

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

## PLANNING

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

## **NOMINATIONS**

- Prepare a nomination notice that specifies the date, time, and place for submitting nominations and the offices to be filled (and identifies any offices for which the officer is a delegate by virtue of election to the office). If appropriate, the nomination notice should also include the term of office, instructions for making and accepting nominations, and eligibility requirements for candidates and nominators. A local union may use a combined nomination and election notice as long as it is mailed to every member and includes all required information.
- Post and/or mail the nomination notice to all members in enough time to allow a reasonable opportunity for nominating candidates. Take steps to notify sick, laid-off, or other nonworking members who may be eligible to nominate candidates but who might not see a notice posted only at the worksite(s) or local union hall.
- Keep an accurate record of all nominations made including the names of nominators, the nominees and the positions for which they were nominated.
- Any member in good standing may nominate another member in good standing at the meeting or any member may nominate her/himself. Allow another member the opportunity to make the nomination if the original nominator is not in good standing.
- Determine the eligibility of all nominees and obtain nomination acceptances or declinations from each nominee.
- Notify all eligible candidates of their nomination and request the preferred listing of each candidate's name or nickname on the ballot in accordance with the election rules. Advise any ineligible candidates in writing of the specific reason(s) for their disqualification.

## **CAMPAIGN GUIDELINES**

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

- Treat all candidates equally. For example, if any candidate is allowed to give a campaign speech at a local union meeting or publish an article in the local union's newspaper, all candidates for that position should be advised and given the same opportunity.

## **ELECTIONS PREPARATIONS**

- Update the local union membership address list; remind members of the upcoming election through notices posted at the worksite(s) or in the local union newspaper and solicit any address changes.
- Prepare an election notice that specifies the offices to be filled and the date, time, and place of the election. If appropriate, the election notice should also include voter eligibility requirements and voter identification procedures.
- Mail an election notice to every member at his or her last known home address at least 15 days prior to the election as required by federal law. Also post copies of the notice at the worksite(s) and the local union hall in an effort to reach members who may not receive the mailed notice.
- Determine each candidate's position on the ballot in accordance with your local union's election rules.
- Arrange for ballots to be printed and for the printer to provide an official count.
- Check the ballot carefully before and after printing for accuracy. Ensure that each candidate's preferred name is used and correctly spelled, each office indicates the correct number of positions to be filled, and each candidate is listed for the proper office in the correct order.
- Maintain custody of and safeguard all ballots and be able to account for all ballots printed.
- Prepare an accurate voter eligibility list for use at the polls and update it, if necessary, immediately prior to the election.
- Establish challenged ballot rules (including the use of a double envelope system) for those persons whose voter eligibility is questioned at the polls.
- Inspect the polling site prior to election day. Plan on how to best use the voting area, including the location of the registration tables, voting booths, ballot box, and observer area.
- Obtain a sufficient number of voting booths, partitions, or other dividers to provide a place for members to mark their ballots in secret.
- Plan for the tally of ballots and determine the counting and voiding procedures to be used. Prepare tally sheets to be used at the ballot count.

## POLLING PLACE PROCEDURES

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

## **BALLOT TALLY**

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

## **POST-ELECTION ACTIVITY**

- Publish and post the election results promptly.
- Maintain all nomination and election records for at least one year as required by federal law, unless there is an appeal. Article 38, Section 12 of the Constitution reads in part, "All ballots and other pertinent records in any election shall be preserved for a period of one (1) year and may then be destroyed by the local union unless an appeal is pending, in which event they must be preserved until the appeal has been decided and the decision is final."

## FIGURE 22

### **ELECTING LOCAL UNION OFFICERS BY MAIL**

This checklist has been developed by the Office of Labor-Management Standards (OLMS) to help Election Committee members conduct local union officer elections by mail in accordance with the requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended. A few UAW local unions, with permission of the International Executive Board, conduct officer elections by mail because their members are dispersed over a wide geographic area making travel to polling sites difficult.

If questions arise about mail balloting procedures or other election requirements not covered in this booklet (such as nomination procedures, candidate eligibility, and campaign rights and restrictions), Election Committee members should contact their regional director.

#### **PREPARATIONS**

- Develop a time schedule for each step of the mail ballot election (ballot printing, mailing, return deadline, and counting) which allows adequate time for completing each phase. As a general rule, allow 3 to 4 weeks for members to mark and return their ballots.
- Establish a date and time by which voted ballots must be received in order to be counted and clearly announce this deadline in the voting instructions. Do not use a postmark date for the ballot return deadline date because a significant percentage of mail is not postmarked.
- Update the local union's membership address list to ensure that the address for each member is correct. Review the local union's most recent mailing to all members to determine if any pieces of mail were returned undelivered, make a list of members for whom new addresses are needed, and attempt to obtain updated addresses for those members.
- Arrange with postal official for special restricted-access post office box to be used solely for the receipt and storage of voted ballots. Do not use the local union's regular post office box or local union office for the receipt of voted ballots. Instruct postal officials that ballots must be released only at a specified time on the ballot return deadline date and only to authorized local union Election Committee members.
- Arrange with postal officials for a second post office box for ballot packages returned undelivered. This post office box will serve as the return address on the ballot package mailed to members.
- Notify candidates of all election and campaign rules including the right to inspect, once within 30 days before the election, a list of all members (subject to a collective bargaining agreement which requires local union membership as a condition of employment) and the right to have the local union distribute campaign literature to members at each candidate's expense. Also advise candidates and current officers about the prohibition against the use



of local union and employer funds (including facilities, equipment, supplies, and campaigning on time paid for by the local union or employer) to support any person's candidacy in a local union officer election.

- Advise candidates of the date, time, and place for the preparation and mailing of ballot packages; information about any ballot package re-mailing; the date, time, and place of the ballot pickup at the post office and tally; and their right to have challengers at each of these activities.
- Prepare an accurate voter eligibility list with up-to-date member addresses. In order to facilitate ballot sorting and voter identification at the tally of ballots, Election Committee members should assign a sequential number to each member's name on the eligibility list. This same "voter identification number" should be placed in the lower left corner of the voter's corresponding return ballot envelope before mailing the ballot packages.
- Obtain the necessary materials and prepare a mail ballot package for each member which provides for ballot secrecy, using a double envelope system.

## THE MAIL BALLOT PACKAGE

The five mail ballot packet items illustrated in this section include recommended formats and dimensions of the three different size envelopes needed. Each member should receive the following:

### [1] Secret Ballot Envelope

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<p><b>Secret Ballot Envelope</b></p> <p>(Do not write your name or other identifying information on this envelope.)</p>
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3-5/8" x 6-1/2" (No. 6-1/2 envelope)

*This small envelope, either blank or printed with the words "**Secret Ballot Envelope,**" will be used by the voter to enclose the marked ballot. Advise members not to place any identifying information on this envelope.*

### [2] Return Ballot Envelope

---

Name _____ (please print) Address _____ City/State/Zip _____  Local 0000 UAW Election Committee Post Office Box ### City / State / Zip  #650
---

3-7/8" x 8-7/8" (No. 9 envelope)

*This envelope will be used by the voter to return the **secret ballot envelope** with the marked ballot sealed inside. It should be pre-addressed to the post office box for returned voted ballots and contain space for the voter to print his or her name and address in the upper left corner. If a voter identification number has been assigned (which corresponds to the voter's number on the voter eligibility list), it should appear in the lower left corner of this envelope.*

### [3] Large Mailing Envelope

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Local 0000 UAW Election Committee P.O. Box ### City/State/Zip  John Doe 123 Main Street Anywhere, MI 44422
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4-1/8" x 9-1/2" (No. 10 envelope)

*This large envelope will be used to mail the other four mail ballot items to each member. The return address should be a post office box designated solely for the receipt of ballot packages returned undelivered so that they can be re-mailed by Election Committee members after obtaining correct addresses.*

## [4] Election Notice and Voting Instructions

If election notices were not mailed to members previously, the ballot package may serve as the election notice provided it is mailed at least 15 days prior to the date when ballots must be mailed back in order to be counted and contains voting instructions which are clear and complete, *such as those in the following example for fictitious Local 0000:*

**- S A M P L E -**

**Local 0000 UAW  
Election Notice**

A secret ballot for the election for the offices of President, Vice President (or Vice Presidents), Recording Secretary, Financial Secretary, Treasurer, three (3) Trustees, Sergeant-at-Arms and Guide is being conducted by mail. Ballots for this election are being mailed to the members on [---date---]. Any eligible member who has not received a ballot in the mail at home by [---date---] or any member who spoils a ballot may request a new ballot by contacting Election Committee Chairperson [---name---] at [---phone---]. If you request and return another ballot, only the replacement ballot will be counted.

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**Instructions For Mail Voting**

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

- Mark an "x" or "✓" in the box next to the name of the candidates of your choice. 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 ensure 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 Election Committee Chairperson [---name---] at [---phone---]
- Insert the sealed secret ballot envelope containing your marked ballot into the return envelope pre-addressed to the Local 0000 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 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 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 Local Union office.

---

**IMPORTANT:** Mail your ballot in sufficient time for it to be received at [---address], [---city/state/ZIP] no later than [---time---] and [---date---].

## [5] Unmarked Ballot

Official Ballot Local 0000 UAW	
President	
_____	<input type="checkbox"/>
_____	<input type="checkbox"/>
_____	<input type="checkbox"/>
Vice President	
_____	<input type="checkbox"/>
_____	<input type="checkbox"/>
Financial Secretary	
_____	<input type="checkbox"/>
_____	<input type="checkbox"/>
etc.	

Election Committee members should ensure that each voter is sent a blank ballot. Ballots should be checked (before and after printing) to ensure that each candidate's preferred name is used and correctly spelled, each office indicates the correct number of positions to be filled and each candidate is listed for the proper office in the correct order.

- Check the mail ballot packages carefully after they are prepared to make sure that all necessary items are enclosed, the envelopes are properly addressed, and that any assigned voter identification number on the return ballot envelope in each member's ballot package matches the number assigned to that member on the voter eligibility list.
- Retain custody of the ballot packages until mailing and safeguard blank ballots throughout the balloting period. Election Committee members must be able to account for all ballots printed. The number of ballots printed minus the number of ballots issued to members (in the initial mailing as well as any additional mailing) must equal the number of unused ballots on hand at the end of the election.
- Mail a ballot package to every member. If a separate election notice is not mailed, ballot packages must be sent to all members, not only to members in good standing. Ballot packages should be mailed to members at least 15 days prior to the date when they must be mailed back in order to be counted. Members must be given a reasonable time to receive, mark, and return ballots.
- Send ballot packages by first class mail to ensure that all members receive ballots in a timely manner. Obtain a statement from the post office indicating the number of ballot packages mailed.

## DURING THE BALLOTING PERIOD

- Ask postal officials not to release information to anyone about the number of ballots returned or the names of the voters prior to the time of the ballot pickup.
- Pick up any ballot packages mailed to members which have been returned undelivered to the post office box for this purpose. Attempt to obtain accurate addresses for these members. Ballot packages with updated addresses should be re-mailed as soon as possible. Challengers have the right to be present for the pickup and re-mailing of ballot packages.
- Advise members how to request another ballot if the ballot package is not received or if the ballot is spoiled while voting. Include this information in the election notice (as illustrated in the sample notice in this booklet), post a copy of the election notice at the local union hall and at worksites, and print an announcement in any union publication. Send a replacement ballot package to any eligible member who makes a request.
- Keep a list of the names and addresses of any members who request replacement ballots. Replacement ballot return envelopes should be marked with a special designation (such as "D" for duplicate) to alert Election Committee members at the tally that these members have been sent more than one ballot. A record must be kept of all replacement ballots sent in response to requests and all ballot packages which were re-mailed after being returned undelivered, including dates received and mailed.
- Plan for the pickup of ballots from the post office and the tally of ballots. Determine the ballot counting method and voiding rules to be used and prepare tally sheets.

## COUNTING BALLOTS

- Pick up the envelopes containing the voted ballots from the post office box only at the scheduled date and time, allowing candidates to have a challenger present. Under no circumstances should ballots be picked up before the ballot return deadline or by anyone other than Election Committee members.
- Verify voter eligibility at the tally site using the following recommended procedures:
  - 1.) Count and record the number of return ballot envelopes received at the post office box, removing any envelopes addressed to a different party.
  - 2.) Put the return ballot envelopes in the order (alphabetical, numerical, etc.) which corresponds to the voter eligibility list. Void (but do not open) any return ballot envelope which does not contain information that identifies the member as an eligible voter.
  - 3.) Call out the name of each voter and mark the name off the voter eligibility list to ensure that no member casts more than one ballot. If a voter's name does not appear on the list, challenge the ballot, add the voter's name to the end of the voter eligibility list, and mark both the list and the envelope with a "C" for challenged ballot.

- 4.) If a voter returns a replacement ballot in an envelope marked Election Committee members with a "D" for duplicate, indicate that fact on the voter eligibility list and on the list of replacement ballots maintained by Election Committee members. If a voter returns two ballots, Election Committee members must decide in advance which ballot to count. Usually the replacement ballot should be counted; the other returned ballot envelope should be voided.
  - 5.) If the return ballot envelope does not contain the voter's name or other required information but does contain information identifying the person as eligible to vote (such as a voter identification number), the ballot should be counted. For example, if a voter uses a pre-printed return address sticker rather than printing or signing his or her name as directed by the voting instructions, the ballot should be counted. (Voters should not be required to sign the ballot return envelope unless Election Committee members are going to physically compare each signature to some other record, a task which is extremely difficult and time-consuming.)
- Resolve any challenged ballots, if possible, before any ballot envelopes are opened and the counting begins. Election Committee members should keep a record of decisions made and explain the reason for each voter eligibility decision to challengers.
  - Remove (but do not open) the secret ballot envelopes from the return ballot envelopes after voter eligibility is established and thoroughly mix all of the secret ballot envelopes together to preserve ballot secrecy. Challengers should not be permitted to handle any envelopes or ballots.
  - Prior to the tally, Election Committee members should decide what to do if a voter has not used the secret ballot envelope. Election Committee members have two choices:
    - 1.) Election Committee members may decide to void a ballot if a voter had not used the secret ballot envelope. (If this policy is adopted, include a warning to members in the voting instructions as illustrated elsewhere in this booklet, that a ballot will be voided if it is not returned in the secret ballot envelope.) **OR**
    - 2.) Election Committee members may decide to count these ballots, but they must take necessary steps to preserve secrecy. (In such cases, carefully remove the ballot from the return ballot envelope without allowing anyone to see how it is marked. Immediately place the ballot face down and mix it together with the other ballots after they are removed from the secret ballot envelopes to preserve secrecy.)
  - Open the secret ballot envelopes, remove and unfold the ballots, and place them face down. (If a secret ballot envelope does not contain a ballot, make a notation to that effect on the envelope and set it aside. Remember to account for any such envelopes when determining the total number of ballots returned.)
  - Begin the actual counting of ballots after completing the voter eligibility check and attempting to resolve any challenged ballots. Count the votes on each ballot and enter the results on tally sheets.
  - Void the entire ballot if it contains information identifying the voter. Void only the particular office involved if voter intent is not clear or if too many candidates have been selected for an office.

- Announce the tally results for each office. Report the number of valid ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots.
- Pack and seal in boxes all return ballot envelopes, secret ballot envelopes, voter eligibility lists, tally sheets, and the used and unused ballots after the counting is completed and keep them for at least one year as required by federal law. [See Article 38, Section 12 of the Constitution.]
- Publish and post the election results promptly.
- Return to the post office at a later date and pick up any ballots received after the deadline. Void (but do not open) any ballots received after the ballot return deadline, marking the ballot envelopes "Void - Received After Deadline." Retain these ballot envelopes with the other election records.

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