

*ELECTING
UFCW LOCAL UNION OFFICERS*

RECOMMENDED PROCEDURES AND GUIDELINES
FOR LOCAL UNIONS

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CONDUCTING ELECTIONS OF LOCAL UNION OFFICERS

I. Preparing for Nominations and Election

Prior to conducting nominations and holding an election of officers it is important to:

A. Review carefully:

1. Articles of International Constitution

- 4(B) - definition of active members
- 5 - rights and privileges of membership
- 34(D) - election of vice presidents
- 35 - election procedures

2. Election procedures article of local union's bylaws

Note: If there is any conflict between the International Constitution and the local union's bylaws, the International Constitution prevails.

B. Know:

1. Which positions must be filled by election

- All constitutional officers must be elected by secret ballot election

2. When the nominations and elections must be held

- Nominations and elections must be conducted during the six-month period preceding the expiration of the term of office.
- Elections for officers of local unions must be conducted "not less often" than once every three years.
- Local unions are free to hold elections more frequently and make terms of office shorter, if provided for in the local union's bylaws.

3. Who is eligible to run for office

- Any active member
- With continuous active membership in the local union (including any other local union which has merged with the local union) for at least 12 months prior to the month in which nominations are held; or
- Continuous active membership in the International Union for at least 24 months prior to that month.
- Must not be barred by Section 504(a) of the LMRDA.

C. Establish an election committee

Presidents of local unions must establish an election committee composed of members of any UFCW local union to supervise and conduct the election of officers.

1. The general chairperson

- The general chairperson makes the rules and sets the times, dates and places for the election.

Note: Appointment of the general chairperson must be made prior to the nominations.

2. Assistants/election judges

Assistants/election judges assist the general chairperson in his or her duties.

- Must have a minimum of three election judges
- One judge or the general chairperson must be present at each polling place

Note: Can appoint election judges after the nominations but should have some assistants prior to nominations to help with the process.

3. The election committee must carry out their duties fairly and impartially, and must not be candidates in the election.

D. Update records

Make sure address list and membership records are complete, accurate and current prior to mailing the Notice of Nominations.

1. Compare the mailing list with membership records to ensure that the names of all members appear on the mailing list.
2. Examine system for recording addresses and making address changes to ensure address change information is entered in a timely, accurate manner.
3. Correct and complete address changes for any member whose address the local union is aware of being either incorrect or incomplete.
4. Take affirmative steps to ensure records are complete and accurate.
 - Post notices at work sites, web sites, the union hall, bulletin boards, and in the union newspaper requesting members to advise the union of address changes.
 - Send a mailing to members several months before nominations by first class mail, so that the post office will return any undelivered mail; obtain correct addresses for members whose mail was returned.
 - Check listings in local telephone books and through Internet “search engines” to find updated addresses or telephone members to request new addresses.
 - Contact the personnel office of employers to obtain corrected addresses.
 - Provide business agents and stewards with the names of members with “bad addresses” and ask them to obtain updated addresses when visiting work sites.

Note: Do not rely solely on individual members to report changes in address.

5. Keep membership and address list up-to-date throughout the election process.

II. Notices of Nominations and Election

The Notice of Nominations and Election for local union officers must be sent by mail to the last known home address of all active members of the local union.

Note: In those cases where the local union knows that the address is no longer accurate and has made all reasonable but unsuccessful attempts to determine the current address, it is recommended that the notice still be sent to the known incorrect address, so as to technically comply with requirement of mailing to the last known home address.

A. Method of Notice

1. Notice may be by separate letter and mailed to the member; or
2. by timely publication in the local union newspaper or newsletter.
 - If in the newspaper or newsletter, it must be either conspicuously placed on the front page or the front page must have a specific and prominently placed reference to the inside page where the notice appears.
3. Notice for the nominations and election may be combined into a single notice.

B. Timing of Notice

1. There must be a minimum of 15 days notice for the nominations and the election of officers.

Note: If mailed as one notice, must still provide time between the nominations and election for candidates to campaign (see Section IV on page 7).

- For **mail referendum** election: if notice of the date the ballots will be mailed to members and the date the ballots are due back is not given prior to mailing the ballots, then the instructions with the ballot are the notice.

- In such case, ballots must be mailed to members at least 20 days prior to the receipt deadline for their return.
2. In determining the appropriate number of days for sending the notice, do not count both the date the notice is mailed and the target date.
 3. The maximum length of time for mailing the notice prior to nominations or the election should be no longer than six weeks prior to either nominations or the election.

C. Substance of Notice

1. Notice of Nominations should include:
 - offices to be filled by nomination
 - date(s) and time(s) for submitting nominations
 - place(s) at which nominations will be held
 - proper method for submitting nominations (that is whether written, orally from the floor or by some other method)
 - eligibility requirements to run as a candidate for office
2. Notice of Election should include:
 - date(s) and time(s) for the election
 - place(s) at which the election is being held
 - any identification that might be required to vote for officer positions

D. Special issues regarding Notice of Nominations and Election

1. If a substantial number of the local union's members speak a non-English language, the nomination and election notices (as well as the ballots and ballot instructions) should be translated into that language.
 - If the collective bargaining agreement for any bargaining unit is translated into a non-English language, notices (and ballots and ballot instructions) should be translated into that language for at least the members in that bargaining unit.
2. If a **runoff election** is required, a new 15-day notice must be mailed in most instances.

III. Nominations

Must be conducted in a manner that affords members a reasonable opportunity to nominate. Moreover there can be no discrimination in prescribing the manner of setting the dates, times, and places for nominations.

A. Place(s) and time(s) of nominations

Nominations should be conducted at meetings unless nomination petitions are provided in local union bylaws.

1. Nominations conducted at meetings

- **Place(s)** – rule of thumb: for any major cluster of members, meetings should be scheduled not more than 1-1¼ hour drive one way – make sure that if scheduled during rush hour, time does not exceed 1½ hour drive one way.
- **Times** – if members are working at more than one shift, it is recommended that there be two times for each location.

2. Nominations conducted by petition

- Local union can require only if the procedures and the necessary number (or percentage) of signatures are provided for in the local union's approved bylaws. (Not to exceed 2% of active monthly membership.)
- Procedures must be consistent with Article 35(C)13 of the International Constitution.

B. Nomination requirements

1. Recommended that self-nominations be permitted.
2. Even if self-nominations are permitted, members must still be permitted to nominate others.
3. Members should not be required to be present at nominations meeting in order to be nominated.

Note: Vice presidents to be nominated and elected by numbered position (for example, Vice President No. 1, Vice

President No. 2, etc.) – the numbers do not apply after the election is completed.

IV. Time Between Nominations and Election

Time period depends upon the circumstances, including method of nominations, number of members in union, and geographic area covered.

A. Polling place elections

Except in very small or one-workplace locals, the recommended time between the last day of nominations and the first day of the election is **at least** two weeks in order to afford candidates a reasonable opportunity to campaign.

B. Mail referendum elections

If election is conducted by mail referendum election, it is recommended that there be at least 12 days from the last day of nominations to the date the local union mails ballots to the membership.

V. The Rights of Candidates

A. The right to inspect a local union's membership list

1. Candidates have the right to inspect a local union's membership list (and their addresses) which are covered by a union security clause.
 - Must be allowed to inspect the list at least once within 30 days of the election or 30 days before mailing of ballots in a mail ballot election.
 - This right does not apply to membership lists not covered by a union security clause.
 - This right does not include the right to copy the membership list.
2. Candidates must be treated equally
 - If one candidate is given access to inspect the lists or copy the lists, the challenger must also be provided access to the lists.

B. The right to have campaign literature distributed

1. Candidates have the right to have campaign literature distributed to the membership at the candidates' expense. The local union should establish procedures for the distribution.
 - The cost of mailing is borne by the candidates. However, the cost set by the local union must be reasonable.
2. The local union must comply with all reasonable requests for distribution.
3. The local union should ensure a prompt response to a candidate's request for distribution.
4. Candidates have a right to send out the literature of their choice.
 - Local union cannot require that it see the candidate's literature prior to sending it.
 - Local unions cannot censor the literature.

C. The right to review collective bargaining agreements

Candidates have the right to review all collective bargaining agreements to which the union is a party, but only have the right to obtain lists of the employers (and their addresses) if another candidate has the union's list and uses it to campaign.

D. The right to campaign

1. Must be afforded a reasonable opportunity to campaign.

Note: See Section IV above.

2. However:
 - Candidates may not campaign inside the polling place
 - Local unions may uniformly forbid campaigning within a reasonable distance of a polling place.

E. The right to have observers to the election

1. All observers must be active members of the local union.
2. Observers have a right to be present at the counting of the ballots and observers have a right to watch, not assist or interfere.
 - If polling place election, then observers have the right to observe at the polls and during the vote count.
 - If mail referendum election, then observers have the right to observe at the preparations, mailing of the ballots, at the post office when the election committee picks up the ballots, and at the vote count.
3. Candidates may serve as an observer, but not inside the polling place.

VI. Union Expenditures

No union funds or resources of any kind may be used to promote the candidacy of any member for local union office or delegate.

A. The prohibition applies to:

1. The UFCW local union who is conducting the election of officers
2. All other UFCW local unions
3. Non-UFCW local unions
4. Any International Union or any Intermediate Chartered body

B. The prohibition forbids the use of union resources

1. This prohibition includes the use of:
 - Union offices or other facilities
 - Computers, copiers, or fax machines
 - Telephones, cell phones, or blackberries
 - E-mail, web site, or logos
 - All other union equipment, supplies or resources

2. It does not matter if union officials did not know about or approve the expenditure.

Note: Cars – may use union issued car if person uses for other personal matters, but must pay for own gas.

C. The prohibition forbids any campaigning on union time

Employees of a union may not campaign while on union time.

1. May use off-work time, or take vacation time or unpaid leave, to campaign pursuant to time-off provisions of applicable collective bargaining agreement or union policy.
2. May still campaign if activity is incidental to regular union business.

Note: Be cautious; do not stretch this rule.

D. The prohibition forbids campaigning at meetings or in union publications

1. This includes campaigning in:
 - Union membership meetings or stewards meetings
 - Union publications or newsletters
 - Union web sites or other union social media sites
2. Subtle campaigning in publications or at meetings is prohibited.
 - Do not increase coverage of incumbents or other candidates through stories or photographs, in terms of frequency, size, and placement within the publication.
 - All stories about the accomplishments of the local union should be timely and worded normally.
 - Do not use meetings to make endorsements or make overly laudatory statements about candidates.
 - Department of Labor is concerned about any statements which are future-oriented, sound as if they could be part of a campaign speech, or are unnecessarily complimentary.

E. Permissible union expenditures

1. It is permissible to use union funds to pay for the costs to run the election.
2. It is permissible to hold and pay for meetings that provide candidates with an open forum for candidates.

VII. Employer Expenditures

Generally, the rules that apply to union expenditures also apply to employer expenditures: No employer funds of any kind may be used to promote the candidacy of any member for local union office or delegate.

A. The prohibition applies to:

All employers, even if the employer does not have a contract with the local union and has nothing to do with the local union's jurisdiction.

B. Prohibition includes:

Discounts, reduced or free use of an employer's offices, computer, printer, fax machine, etc. is a prohibited expenditure.

Note: No de minimus rule. Even small amounts may result in an overturned election.

VIII. Recommendations Regarding Campaign Expenditures

1. Individuals or campaigns should pay for all campaign services – eliminates any doubt as to validity.
2. Individuals should pay fair market value for anything of value.
3. To avoid errors in payment, no campaign bills should be sent to the local union office.
4. Individuals or campaigns should retain receipts for all campaign expenditures, including gas receipts.

5. Incumbent officers and union staff should take vacation time or a leave of absence to campaign.

IX. Procedures for Voting

Voting procedures must be fair and impartial and must be conducted by secret ballot.

A. Position candidates' names on ballot in an impartial way

1. There are a number of reasonable options available for determining the position of the candidates' names on the ballot, including:
 - alphabetical
 - by lot
 - order in which nominated
2. Determine and announce which method you will use for determining the position of the candidates' names on the ballot before taking nominations.

B. Ballots must be accounted for at every step in the process

C. Steps must be taken to ensure the secrecy of the ballot

Must not only provide for secret ballot elections but enforce the secrecy of the ballots cast.

D. Voting at polling places

1. Election must be held at such places and times as to afford members a reasonable opportunity to vote. There must be no discrimination in setting the times and dates for the elections.
 - **Times** – time of day and length of time must be reasonable.
 - **Places** – rule of thumb: for any major cluster of members, not more than a 45 minute drive one way at the time of day the member is likely to vote – but recommended in most instances that the distance be not more than a 30 minute drive one way.

2. Must not only provide opportunity for members to vote in privacy, but must ensure vote is made in private.
 - Voting must be limited to a restricted area.
 - Use booths, partitions on tables or provide separate rooms for voting.
 - Prohibit loitering in the restricted area.
 - No one, including those waiting to vote, should be near members as they vote.
3. Make sure there is a voter eligibility roster at each polling place and that each voter signs the election register.
4. Provide challenged ballots
 - For those who do not appear on the eligibility list, do not possess the required identification, or are voting at other than their assigned polling place, provide a challenged ballot. Place it in a double envelope, with nothing written on the inner envelope, and note the name and all relevant circumstances on the outer envelope.

E. Mail Referendum

Follow the detailed procedures of Article 35(C)9 of the International Constitution and those of the local union's bylaws which are not inconsistent with the International Constitution.

1. Mail referendum may be conducted for the entire local union, or in the outlying areas only.
2. Local union should obtain a post office box to be used solely for the purpose of the mail referendum.
3. Establish a receipt deadline for the return of mail ballots, and pick up ballots that day at 12:00 noon.
 - Receipt deadline needs to be between 15 and 30 days after the date on which the ballots are mailed to the members.

Exception – ballots must be mailed to the membership at least 20 days prior to the receipt deadline for the return of ballots, if the local union has not previously mailed to each member at the last known home address, notice of both the date that the ballots will be sent to the membership and the receipt date for return of the ballots.

4. Members must be sent two envelopes for returning mail ballot:
 - Secret ballot envelope with no identifying number or marks
 - Ballot return envelope, which shall be pre-addressed to the special post office box and which shall either contain a label with the member's name and address or clearly ask the member to print name and address.

X. Counting the Ballots

- A. **All aspects of the counting should be in full view of the observers.**
- B. **If the ballot is not marked precisely as directed in instructions, count it if the clear intent of the voter can be determined.**

If the clear intent of the voter cannot be determined for one race, still count the ballot with respect to all other races on that ballot for which the clear intent of the voter can be determined.

- C. **Resolve challenged ballots:**

Challenged ballots which are resolved are either validated and counted, or voided and not counted – if not resolved, they remain challenged and uncounted.

1. Even if they could not affect the outcome of any position, it is recommended that the challenged ballots which can be easily resolved be resolved and, if valid, counted.
2. For those which are more difficult to resolve, resolve only if they could have affected the outcome of any race – if valid, count.

3. For the challenged ballots determined to be valid, remove the outer envelopes, mix together, and then open the inner envelopes and count the ballots.

XI. After the Election

Keep all election records and ballots sealed, locked, or otherwise secured for at least one year after the completion of the election – including the unused ballots, the membership mailing lists used for notices of nominations and election, the vote count, and, if applicable, for sending the mail ballots.