

than one local, publication may be accomplished by posting on appropriate bulletin boards, or in a union newspaper, or by any procedure which allows any member to obtain the information without unusual effort. Of course, the counting and reporting should account for all ballots cast in the election, although only valid votes will be counted in determining the successful candidates.

**§ 452.109 Constitution of labor organization.**

Elections must be conducted in accordance with the constitution and bylaws of the organization insofar as they are not inconsistent with the provisions of title IV.<sup>53</sup>

**§ 452.110 Adequate safeguards.**

(a) In addition to the election safeguards discussed in this part, the Act contains a general mandate in section 401(c), that adequate safeguards to insure a fair election shall be provided. Such safeguards are not required to be included in the union's constitution and bylaws, but they must be observed. A labor organization's wide range of discretion regarding the conduct of elections is thus circumscribed by a general rule of fairness. For example, if one candidate is permitted to have his nickname appear on the ballot, his opponent should enjoy the same privilege.

(b) A union's failure to provide voters with adequate instructions for properly casting their ballots may violate the requirement of adequate safeguards to insure a fair election.

**§ 452.111 Campaigning in polling places.**

There must not be any campaigning within a polling place<sup>54</sup> and a union may forbid any campaigning within a specified distance of a polling place.

<sup>53</sup>Act, sec. 401(e). Under 29 CFR 402.10, a labor organization is required to make available to all members a copy of its constitution and bylaws.

<sup>54</sup>See *Hodgson v. UMW*, 344 F.Supp. 17 (D.D.C. 1972).

**§ 452.112 Form of ballot; slate voting.**

The form of the ballot is not prescribed by the Act. Thus, a union may, if it so desires, include a proposed bylaw change or other similar proposal on a ballot along with the candidates for office so long as this is permissible under the union's constitution and bylaws. A determination as to the position of a candidate's name on the ballot may be made by the union in any reasonable manner permitted by its constitution and bylaws, consistent with the requirement of fairness and the other provisions of the Act. For example, candidates may be listed according to their affiliation with a particular slate. However, while "slate voting" is permissible, the balloting must be consistent with the right of members to vote for the candidates of their choice. Thus, there must be provision for the voter to choose among individual candidates if he does not wish to vote for an entire slate. To avoid any misunderstanding in this regard, the voting instructions should specifically inform the voter that he need not vote for an entire slate.

**§ 452.113 Sectional balloting.**

The ballots may be prepared so that the names of candidates for positions representative of a particular area appear only on the ballots received by members living in that area.

**§ 452.114 Write-in votes.**

Where write-in votes are permitted in an election subject to title IV, details of the format of the ballot are left to the discretion of the union. Ordinarily, the Secretary would become involved in such matters only in the context of an election complaint under section 402 and then only if the arrangements for write-in votes were so unreasonable that the outcome of the election may have been affected. Of course, a union may, in accordance with its constitution and bylaws or as a matter of stated policy, refuse to permit write-in votes.

**§ 452.115 Distribution of ballots.**

So long as secrecy of the ballot is maintained, there is no restriction on how the ballots are distributed to the

**§ 452.116**

voters. Any method which actually provides each eligible voter with one blank ballot would be in conformance with the law.

**§ 452.116 Determining validity of ballots.**

Generally, a labor organization has a right to establish reasonable rules for determining the validity of ballots cast in an election. However, where the union has no published guides for determining the validity of a voted ballot, it must count any ballot voted in such a way as to indicate fairly the intention of the voter. An entire ballot may not be voided because of a mistake made in voting for one of the offices on the ballot.

**§ 452.117 Majority of votes not required for election.**

A labor organization may by its constitution and bylaws provide for the election of the candidate who receives the greatest number of votes, although he does not have a majority of all the votes cast. Alternatively, it may provide that where no candidate receives a majority of all the votes cast, a run-off election be held between the two candidates having the highest vote. Similarly, a labor organization conducting an election to choose five members of an executive board may designate as elected from among all the nominees the five candidates who receive the highest vote.

**§ 452.118 Local unions agents in international elections.**

An international union may establish internal rules which require local or intermediate union officials to act as agents of the international in conducting designated aspects of the international referendum election of officers. The consequences of the failure to perform as directed by such officials will, of course, depend on the totality of the circumstances involved.

**§ 452.119 Indirect elections.**

National or international labor organizations subject to the Act have the option of electing officers either directly by secret ballot among the members in good standing or at a convention of delegates or other representa-

**29 CFR Ch. IV (7-1-03 Edition)**

tives who have been elected by secret ballot among the members. Intermediate labor organizations subject to the Act have the option of electing officers either directly by secret ballot among the members in good standing or by labor organization officers or delegates elected by secret ballot vote of the members they represent. Local unions, in contrast, do not have the option of conducting their periodic elections of officers indirectly through representatives.

**§ 452.120 Officers as delegates.**

Officers of labor organizations who have been elected by secret ballot vote of their respective memberships may, by virtue of their election to office, serve as delegates to conventions at which officers will be elected, if the constitution and bylaws of the labor organization so provide. In such cases it is advisable to have a statement to this effect included on the ballots. Persons who have been appointed to serve unexpired terms of officers who are ex officio delegates to a convention at which officers will be elected may not vote for officers in such election.

**§ 452.121 Limitations on national or international officers serving as delegates.**

While officers of national or international labor organizations or of intermediate bodies who have been elected by a vote of the delegates to a convention may serve as delegates to conventions of their respective labor organizations if the constitution and bylaws so provide, they may not vote in officer elections at such conventions unless they have also been elected as delegates by a secret ballot vote of the members they are to represent. Of course, such officers may participate in the convention, i.e., they may preside over the convention, be nominated as candidates, or act in other capacities permitted under the organization's constitution and bylaws.

**§ 452.122 Delegates from intermediate bodies; method of election.**

A delegate from an intermediate body who participates in the election of officers at a national or international convention must have been