

## § 452.56

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

### § 452.56 Notice.

(a) To meet this requirement, the labor organization must give timely notice reasonably calculated to inform all members of the offices to be filled in the election as well as the time, place, and form for submitting nominations. Such notice should be distinguished from the notice of election, discussed in § 452.99. Notice of nominations need not necessarily be given at least 15 days before nominations are held, nor is it required to be given by mail. In an election which is to be held by secret ballot, accordingly, notice of nominations may be given in any manner reasonably calculated to reach all members in good standing and in sufficient time to permit such members to nominate the candidates of their choice, so long as it is in accordance with the provisions of the labor organization's constitution or bylaws. Mailing such notice to the last known address of each member within a reasonable time prior to the date for making nominations would satisfy this requirement. Likewise, timely publication in the union newspaper with sufficient prominence to be seen by all members would be adequate notice. The method of making nominations, whether by mail, petition, or at meetings, could affect the determination of the timeliness of the notice. The nomination notice may be combined with the election notice if the requirements of both are met. Posting of a nomination notice may satisfy the requirement of a reasonable opportunity for making nominations if such posting is reasonably calculated to inform all members in good standing in sufficient time to permit such members to nominate the candidates of their choice.

(b) The requirement of a reasonable opportunity for the nomination of candidates has been met only when the members of a labor organization are fully informed of the proper method of making such nominations.

### § 452.57 Procedures for nomination.

(a) Since the Act does not prescribe particular procedures for the nomination of candidates, the labor organization is free to employ any method that will provide a reasonable opportunity for making nominations. There are

various methods which, if properly and fairly employed, would be considered reasonable under the Act. For example, nominations may be by petition, or from the floor at a nomination meeting.

(b) Whether a particular procedure is sufficient to satisfy the requirements of the Act is a question which will depend upon the particular facts in each case. While a particular procedure may not on its face violate the requirements of the Act, its application in a given instance may make nomination so difficult as to deny the members a reasonable opportunity to nominate.

### § 452.58 Self-nomination.

A system of self-nomination, if this is the only method for making nominations, deprives union members of a reasonable opportunity to nominate candidates and thus is inconsistent with the provisions of title IV.<sup>34</sup> Self-nomination is permissible only if the members are afforded additional methods whereby they may nominate the candidates of their choice.

### § 452.59 Presence of nominee.

A requirement that members must be present at the nomination meeting in order to be nominated for office might be considered unreasonable in certain circumstances; for example, in the absence of a provision for an alternative method under which a member who is unavoidably absent from the nomination meeting may be nominated, such a restriction might be regarded as inconsistent with the requirement in section 401(e) that there be a reasonable opportunity to nominate and to be a candidate.

### § 452.60 Nominations for national, international or intermediate body office.

(a) When officers of a national or international labor organization or of an intermediate body are to be elected by secret ballot among the members of the constituent local unions, it is not unreasonable for the organization to employ a nominating procedure whereby each local may nominate only one

<sup>34</sup>See *Wirtz v. National Maritime Union of America*, 399 F.2d 544 (C.A. 2 1968).

candidate for each office. When such a procedure is employed the organization may require that each candidate be nominated by a certain number of locals before his name will appear on the ballot. The reasonableness of the number of local union nominations or endorsements required depends upon the size and dispersion of the organization.

(b) Nominations for national, international or intermediate body office by locals or other subordinate organizations differ from primary elections in that they are not subject to all the technical requirements of secret ballot elections.<sup>35</sup> However, where nominations are made by locals or other subordinate organizations fundamental safeguards must be observed including the right of members to vote for and support the candidates of their choice without improper interference.

**§ 452.61 Elimination contests—local unions.**

(a) A procedure in a local under which nominees compete in an elimination process to reduce the number of candidates in the final balloting is also part of the election process and must be conducted by secret ballot.

(b) When such an elimination process is used it would be unreasonable for some nominees, such as those selected by a nominating committee, to be exempt from the process since they would thus be given an unfair advantage over other nominees.

**§ 452.62 Disqualification of candidates; procedural reasons.**

A candidate who is otherwise eligible for office may not be disqualified because of the failure of a union officer to perform his duties which are beyond the candidate's control. For example, the failure of a local recording secretary to perform his duty to complete

and forward a candidate's nomination certificate to the district may not be used as the basis for disqualifying the candidate.

**§ 452.63 Nominations at conventions.**

In elections at conventions at which nominations are also made, delegates who have been elected by secret ballot must be given ample opportunity to nominate candidates on behalf of themselves or the members they represent. A union may adopt a rule limiting access to the convention floor to delegates. However, once the candidates have been nominated, they must be accorded equal opportunity to campaign.<sup>36</sup> Where delegates are instructed by locals to nominate candidates, the constitution of the organization or the convention rules should provide a specific procedure for the implementation of nominating instructions issued by any local to its delegate.

**§ 452.64 Write-in votes.**

The Act neither requires nor prohibits write-in candidacy or write-in votes. These matters are governed by appropriate provisions of the union's constitution and bylaws, applicable resolutions, or the established practice of the union.

**§ 452.65 Interval between nominations and election.**

The Act specifies no time interval between nominations and election. Thus, both may be scheduled to be held at the same meeting if, during a reasonable period prior to such nomination-election meeting, every member eligible to hold office who intends to run for office is afforded the protection provided in section 401(c), including sufficient opportunity to campaign for office.

**Subpart G—Campaign Safeguards**

**§ 452.66 Statutory provisions.**

The opportunity for members to have a free, fair, and informed expression of

<sup>35</sup>In *Hodgson v. United Mine Workers of America*, the Court directed that the nomination proceedings within the local unions be conducted by secret ballot and in accordance with the provisions of title IV. [80 LRRM 3451, 68 L.C. ¶12,786 (D.D.C. June 15, 1972)]. This Order indicates that the use of secret ballot nominating procedures may be an appropriate remedial measure in a supervised election.

<sup>36</sup>See § 452.79.