

CWA LOCAL 3641
ELECTION CHALLENGE
APPEALS

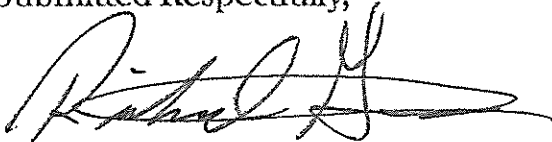


CHALLENGE APPEAL TO CWA DISTRICT 3

Please find herein copies of my challenge and a separate challenge written on behalf of our members in SDF of the results of the Executive Board Election for CWA Local 3641. Results of which were tallied and tentatively certified on November 5, 2020. Such challenges were duly submitted to the CWA Local 3641 Election Committee on November 13, 2020, to which a reply was received from the Election Committee Chair on November 21 denying both (copy of reply provided). Both challenges were then appealed to the Executive Board of Local 3641 (current E-Board at the time of appeal) on November 23, 2020. Some Board members did answer, each voting to uphold the challenges, however, no decision or action to either challenge has been taken by the President of the Local as of January 4, 2021. Therefore, having attempted remedies provided for and described within the CWA Constitution, Article XV Section 4(b), I now hereby submit an appeal to the Vice President of District 3 requesting a decision on both. I submit the SDF appeal on behalf of Nicole Younkin for our members in SDF in addition to my own challenge appeal. Please carefully review and consider these crucial challenges which I believe are vital for the preservation of the rights of not only our membership, but that of every union local. Every voice needs the chance to be heard and I believe we failed many of our members in Local 3641 in this regard. It is my belief we have a chance to remedy those failures by upholding these challenges and ordering a new election so that **ALL** of our local members' voices will indeed have an opportunity to be heard, as guaranteed in the CWA Constitution and codified in U.S. law.

Included as part of these appeals I have provided as addendums examples of cases where the DOL upheld challenges of similar nature, as well as further explanation of my assertion of failures in transparency and observation opportunity. I hope you will find these helpful in your deliberation and determination.

Submitted Respectfully,



Richard Anthony Garcia

GARCIA ELECTION CHALLENGE



By submission of this brief, I wish to contest the results of the Executive Board election held by CWA Local 3641 which were posted on November 5, 2020 on the grounds outlined herein, including attached supporting documents. I stress that the election was very close, in fact multiple positions were within 14 votes or less, and as proven below, at least 30 documented people were disenfranchised because of the failure of the Election Committee and/or Local 3641 to follow the rules and/or spirit of the below statutes and Local By-Laws.

- The Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA") states in part that every member in good standing shall have the right to vote for the candidate or candidates of their choice (29 US Code 481(e)). The LMRDA further requires notification of the election be given to these members. 29 U.S. Code 481- Terms of Office and Election Procedures requires adequate safeguards to ensure a fair election shall be provided. The Office of Labor-Management Standards ("OLMS") offers a Compliance Tip for those elections utilizing Remote Electronic Voting Systems. As part of this Compliance Tip, OLMS states that to preserve the right to vote, "An alternative voting method must be provided, upon request, to any member who does not have access to the electronic voting system." The OLMS Compliance Tip also lays out guidance meant to preserve, in part, "observer rights". This guidance states procedures must include "The opportunity to observe any later distribution of credentials to members who did not receive or who lost credentials. Again, observers must be allowed to view the process." The Bylaws of Local 3641 also specifically stipulate that a Notice of Nominations be posted on all Union bulletin boards Local wide (Article XIV Section F.1). In a document entitled "How to Conduct Local Union Elections", on page 25, referring to the membership (voter) list it states "Every effort should be made to update the list prior to the election."

It is my belief and contention that these stipulations, requirements, and guidance were not followed in a reasonable enough manner to ensure that voters were informed, received an opportunity to cast a vote and/or make a nomination, and were not disenfranchised. In 2020 we face an unprecedented environment, an environment which, due to the pandemic's effect, a significant portion of our membership are on a Voluntary Leave of Absence ("VLOA") or accepted a Voluntary Early Out ("VEOP"). This year our Local has a much larger number of members who are not actually working, and may not have been at their workplace since April; yet, these members are still considered members in good standing per federal statute and CWA guidelines and rules. I believe we as a Local should have taken this into consideration when preparing for this election.

By submission of this brief, I wish to contest the results of the Executive Board election held by CWA Local 3641 which were posted on November 5, 2020 on the grounds outlined herein, including attached supporting documents. I stress that the election was very close, in fact multiple positions were within 14 votes or less, and as proven below, at least 30 documented people were disenfranchised because of the failure of the Election Committee and/or Local 3641 to follow the rules and/or spirit of the below statutes and Local By-Laws.

- The Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA") states in part that every member in good standing shall have the right to vote for the candidate or candidates of their choice (29 US Code 481(e)). The LMRDA further requires notification of the election be given to these members. 29 U.S. Code 481- Terms of Office and Election Procedures requires adequate safeguards to ensure a fair election shall be provided. The Office of Labor-Management Standards ("OLMS") offers a Compliance Tip for those elections utilizing Remote Electronic Voting Systems. As part of this Compliance Tip, OLMS states that to preserve the right to vote, "An alternative voting method must be provided, upon request, to any member who does not have access to the electronic voting system." The OLMS Compliance Tip also lays out guidance meant to preserve, in part, "observer rights". This guidance states procedures must include "The opportunity to observe any later distribution of credentials to members who did not receive or who lost credentials. Again, observers must be allowed to view the process." The Bylaws of Local 3641 also specifically stipulate that a Notice of Nominations be posted on all Union bulletin boards Local wide (Article XIV Section F.1). In a document entitled "How to Conduct Local Union Elections", on page 25, referring to the membership (voter) list it states "Every effort should be made to update the list prior to the election."

It is my belief and contention that these stipulations, requirements, and guidance were not followed in a reasonable enough manner to ensure that voters were informed, received an opportunity to cast a vote and/or make a nomination, and were not disenfranchised. In 2020 we face an unprecedented environment, an environment which, due to the pandemic's effect, a significant portion of our membership are on a Voluntary Leave of Absence ("VLOA") or accepted a Voluntary Early Out ("VEOP"). This year our Local has a much larger number of members who are not actually working, and may not have been at their workplace since April; yet, these members are still considered members in good standing per federal statute and CWA guidelines and rules. I believe we as a Local should have taken this into consideration when preparing for this election.

The American Arbitration Association lists Voter Database Problems as the number one issue in elections. They state that one way to help update the database would be to send a mailing to all voters months in advance of the election to allow time to correct and update the voter database. This was not done even though we have an extreme number- compared to years' past- of members in good standing on VLOA or VEOP but still attached to payroll, workers comp, and other leaves.

I would also offer that waiting until September or October of an election year is too late to request or remind members to update their addresses with the Local to mitigate errors. This could easily be offered during membership meetings which, until the 2nd quarter of 2019, were held four times per year (once per quarter). I note that Local 3641 has not held a membership meeting since March 2019. As a result, many members did not receive notice of their right to vote, effectively disenfranchising them.

Address updates could have also been solicited throughout the year, every year, by inclusion in regular union postings, local website, and through regular station visits by area reps and officers. Further, I submit that these issues could have been discussed at Executive Board meetings which, up until March of 2020, were held monthly, which was the last month Local 3641 held an Executive Board meeting. Had we been allowed to meet as required by the Bylaws, on a regular basis to transact local business (even if only utilizing Zoom or any other platform during the height of COVID), we could have anticipated the issues with voting during a pandemic, advised the Election Committee, and offered options on possible ways to address things such as database errors and how to best to inform all eligible voters of the upcoming election. This did not happen, and could have been easily accomplished.

Also most problematic is a well-known issue whereby the CWAs system causes an employee, whose dues is temporarily stopped but is still in good standing (e.g. a member who is on workman's comp), to be changed from active to inactive. This would mean that for those affected they would have to be manually changed back to active in order to be included on the list of eligible voters, an issue that again could have been anticipated and avoided with regular meetings.

I contend all of these, and I am sure more, contributed to errors in our voter database. While the pandemic was beyond the Local's control, it does not appear to me that the Local did what would be considered reasonable to ensure the most accurate voter database possible.

In addition to those members I include in this challenge, I would also draw attention to the number of additional voters that were added after the initial list of eligible voters was used to mail ballots. This belies the inherent errors and lack of reasonable efforts as described above.

By not doing any of these preventative measures it is my contention this election was in violation of LMRDA 401(e) and 481 by these reasons alone, as well as contradictive to CWA guidance as set forth in "How to Conduct Local Union Elections" since it would not appear that every effort was made to update the voter list prior to the election. However, candidates were also not given the opportunity to observe later distribution(s) of credentials to members who did not receive or had lost credentials as is required via the OLMS Compliance Tip. No information was provided as to times and methods of issuance of additional credentials or additions to the eligible voter count.

The Election Committee imposed a deadline of November 4, 2020 at 6PM Eastern for those who did not receive a ballot to request one. The OLMS Compliance Tip further states an alternate voting method must be supplied on request. The Election Committee refused one member named within this brief (Kim Reynolds) plus, it is my understanding, two more members, the right to a ballot prior to the cessation of voting (in this case all voting was to end at 1PM Eastern on November 5, 2020). By such refusal, I would submit that was again a violation of LMRDA 401(e) and 481.

While Local 3641's use of BallotPoint means it takes time to provide a new credential, or to create one in the case of a new voter being added to the eligibility list, we could have easily provided a system where a Challenged Ballot would be used and the member could have manually voted while not compromising regulations or code. It is far better to allow a member to vote and verify eligibility later than to possibly suppress an eligible voter's right. At the very least, any agent who requested the chance to vote prior to close of election but after the imposed deadline of 6pm November 4 should have been allowed to vote, even if in their case the credentials needed to vote administratively would not have been ready and distributed until after the closing of the polls. This is no different than if a voter is in line to vote in a state or federal election but the line is such that the voter cannot actually cast their vote until the official closing of the polls, in which case they are still allowed to exercise their right to vote. This is supported by the LMRDA (29 USC 481) and the OLMS Compliance Tip which states an alternate means of voting must be provided upon request, there is no mention of a deadline for such a request.

If the official voting deadline has not been passed when such a request has been made, it is my belief that request must be granted per the referenced regulations and statutes.

Again, these methods of preserving the right of a fair election and the right to vote should have been discussed in advance so that we could be ready by having a system in place. To refuse someone's request to vote 19 hours prior to the polls closing is not right and should not happen in the age we live in.

In addition to the serious issues set forth previously in this brief, a Notice of Nominations also was not posted on "all Union bulletin boards Local wide" as required by Local 3641 Bylaws Article XIV Section F.1. Nomination notices were not posted in at least two stations: RDU and SDF. Members from those stations report the only election items received and posted were campaign materials which were sent to them by candidates. Not having this notice posted also meant further disenfranchisement of agents in those stations since that notice also contained the election committee email. It is also worth noting that every union bulletin board in CLT had election information posted including the election committee email, which means neither the committee nor the local took action to uniformly get information out to the at large membership and/or verify any required postings were on union bulletin boards (for example, a member could have taken a picture of the Notice being posted showing compliance) as specifically required by the Bylaws of the Local. All of this again could have been anticipated and addressed easily in advance.

At least one agent was also not able to vote or because of internet and cell service loss due to Hurricane Zeta, which was right in the middle of our voting process. This could not be foreseen but anyone affected should be still given an opportunity to cast a ballot.

Mathematically it can be said that the possible effect cumulatively was such that it can be alleged that had the affected members been allowed to vote, races for various seats within the election could have had a different outcome.

For example, the president's race had a difference of 14 votes, as did the race for vice president. And in the race for area representative, the last 2-3 seats could also have had a different result. For example, the Area Reps who won Seats 4, 5, 6 received 214, 210, 199 votes respectively, but the next 3 candidates were all within between 5-17 votes each, with each of them receiving 194, 185, and 182 votes respectively. The number of members reporting to me that they received no ballot more than satisfies the math test for the possibility of different outcomes in various positions within the election.

Contributing to the lack of reasonable efforts for a fair election and preservation of members' rights through the use of an accurate, updated voter database was the absence of regular Executive Board and Membership meetings, as mentioned earlier. By not having these meetings Local 3641 is in violation of its Bylaws and the CWA Constitution which prevented compliance with the LMRDA, and OLMS. Per Local 3641 Bylaws, the Local President (the only full time elected official in Local 3641) shall be responsible for the conduct of the Local. By not holding regular meetings (no meetings at all subsequent to March 2020), emails from members of the E-Board left unacknowledged, and general lack of communication, this local was in violation of its own Bylaws, CWA Constitution and contributed to non-compliance with the LMRDA and OLMS.

The US Postal Service also reported to the Election Committee that mail was moving slower than normal due to the amount of mail relating to the national election (mail in ballots, campaign mailings, etc.) which was at its height during our election process. This has been well documented in the media and did contribute to issues we experienced during our local election. At least one member did not get their ballot until November 7, two days after the conclusion of voting. We do not have control over the Postal Service, but this did contribute to members either not getting a ballot or getting a ballot too late to vote. We may not be able to accurately anticipate lost or late mail, but we should have done a better job with information being given out to our members to help them effectively address issues with the Election Committee during the voting process. Each station has an Area Rep, perhaps the Election Committee could have utilized them in order to ensure information was getting to the people that needed it most. This, along with many other possible ways to assist the Election Committee with dissemination of information could have been discussed within the Executive Board had it been meeting on a regular basis as provided for in the Bylaws.

All of the issues discussed herein, I would conclude, when taken together served to disenfranchise enough members to merit remedy.

The sum of violations of the LMRDA, OLMS Compliance Tip, Local 3641 Bylaws, and the CWA Constitution and guidance cannot and should not be ignored. Every member's right to nominate and vote in a fair election must be preserved.

In the case of our members in SDF, 66% were unable to vote due to no ballot received. Adding to that disturbing fact, no Notice of Nominations was posted on their union board, effectively detaching that station from our election from the beginning of nominations and throughout the voting process.

I suspect many more members could share similar instances as described herein. Therefore, it is in the best interest of all members, the Local, CWA, and in general all union electorates to uphold the provisions of the LMRDA, the OLMS Compliance Tip, our own Bylaws, and the CWA Constitution as they pertain to elections to the highest degree possible. We must not permit, whether it be purposefully, neglectfully, or otherwise, the suppression or deprivation of our members' basic rights to nominate and vote in a fair election. Nor can we even allow the appearance of permitting that to exist when it may easily be remedied when brought to light.

I would ask respectfully that the results of this election be set aside. A new election should be ordered and administered so that errors may be corrected and all eligible voters, including those identified in the Exhibits as well as those that were affected but unknown at the time of this challenge, may have the chance to vote and be heard as required by the CWA Constitution, Local 3641 Bylaws, and federal statute and regulation. I also ask and welcome any additional remedies as deemed appropriate for resolution of this matter.

On Behalf of all affected I hereby submit this document in order to contest the results of the election for the offices of the Executive Board of Local 3641 which were reported on November 5, 2020.

Richard Garcia

*******PLEASE SEE ALL INCLUDED EXHIBITS*******

NO BALLOT RECEIVED

1. Pam Allman 980-253-7826
2. Christine Mason 702-743-6086
3. Sandy Burns Barefoot 704-576-3803
4. Jim Buynak 850-238-5059
5. Jamie Perkins jamie.perkins@aa.com
6. Robin Frachey 704-572-0412
7. Deb Novak 724-344-5498
8. Kim Reynolds 336-402-9446
9. Roberto Villacis 561-370-9815
10. Jose Andrade 704-712-9074
11. Florangela Previte 786-400-7860
12. Jeremy Gray 704-615-1728
13. Snjezana Zurzulovic 704-557-5569
14. Patti Franklin (ILM- received ballot in mail on November 7, 2020)
15. Jeanne Keim 704-699-6669
16. Dina Walker 207-992-6096
17. Simone Dasilva 201-772-8442
18. Shawn Dunn (RDU) 919-760-5148
19. Bill Yorgenson (RDU) william.yorgensen@aa.com
20. Nicole Younkin (SDF) Fisher.n@gmail.com
21. Kathy Klein (SDF) 702-528-0538
22. Ennis Murphy (SDF) Ennis.Murphy@aa.com
23. Jeanine Hodges (SDF) 502-386-8652
24. Carol Munroe (SDF) carol.munroe@aa.com
25. Crystal Boggs (SDF) crystal.thompson@aa.com
26. Sarah Miller (SDF) 502-541-3916
27. Lisa McCawley (SDF) 502-409-3434
28. Laura Rosado (SDF) laura.rosado@aa.com
29. Phil Hanley (SDF) Phil.hanley@me.com

AGENT COULD NOT VOTE DUE TO LOSS OF INTERNET/CELL SERVICE HURRICANE ZETA

1. Nelson Stoot (MSY) nelson.stoot@aa.com

AGENTS UNSURE IF VOTE WAS RECEIVED/COUNTED

1. Cola Lindberg 949-636-9006 (Says she kept getting disconnected attempting to vote)
2. Mark Thacker mark.e.thacker@aa.com

SDF ELECTION CHALLENGE



I wish to contest and challenge the results of the Local 3641 Executive Board Election which concluded at 1PM on November 5th, 2020.

In SDF, we had several agents, in fact the majority of CWA Membership here, who did not receive ballots and therefore could not exercise their right to vote. This is in violation of The Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 US Code 481- Terms of Office and Election Procedures, Local 3641 Bylaws and the CWA Constitution. Also in violation of Local 3641 Bylaws, there was no Notice of Nominations posted on our Union Board as required by Article XIV Section F.1.

Federal law and regulation (LMRDA and 29 USC 481) stipulate that each member in good standing is allowed one vote. In SDF we had 10 members who did not receive a ballot and therefore were not afforded their lawful opportunity to cast a vote. I have attached a list of Members who state they did not receive a ballot.

We also did not receive a Notice of Nominations nor was one posted on our Union board as required by our Local Bylaws.

Mathematically, 10 members could have changed the outcome of the Area Representative race. We also did not have an opportunity to nominate anyone for any office since the required posting of the Notice of Nominations was not present. Had the opportunity been given to nominate it is possible that a member here might have nominated someone for each office (President, Vice President, Secretary-Treasurer, Area Representative) who had not been originally nominated. Had that occurred, it would have been possible for a different outcome in each race by virtue of that nominated candidate receiving votes which were previously cast for current candidates.

I would ask that due to the above violations the results for the entire election be set aside and a new election held so all eligible members may have an opportunity to vote and/or nominate as prescribed by the LMRDA, 29 USC 481, Local 3641 Bylaws, and the CWA Constitution.

Please see following page for list of agents affected.

Submitted Respectfully,

DocuSigned by:

2070CEAR13514B5

*****ALL SPACE BELOW THIS LINE LEFT INTENTIONALLY BLANK*****

AGENTS WHO DID NOT RECEIVE BALLOTS

1. Nicole Younkin Fisher.n@gmail.com
2. Kathy Klein
3. Ennis Murphy
4. Jeanine Hodges 502-386-8652
5. Carol Munroe
6. Crystal Boggs
7. Sarah Miller 502-541-3916
8. Lisa McCawley 502-409-3434
9. Laura Rosado
10. Phil Hanley Phil.hanley@me.com

SUPPORTING DOCUMENTS
BOTH CHALLENGES



(29 U.S.C. 465)

SEC. 305. The Secretary shall submit to the Congress at the expiration of three years from the date of enactment of this Act a report upon the operation of this title.

Complaint by Secretary

(29 U.S.C. 466)

SEC. 306. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies at law or in equity: *Provided*, That upon the filing of a complaint by the Secretary the jurisdiction of the district court over such trusteeship shall be exclusive and the final judgment shall be res judicata.

TITLE IV - ELECTIONS

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 insure 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 officials 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 subsection (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 hereinafter 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 subsection (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.



Six Ways to Have Your Union Officer Election Overturned

By Jeffrey T. Zaino

American Arbitration Association®, Vice President of Elections

Whether your union officer election is administered internally or by an administrative agency, the union is ultimately responsible for ensuring a fair and proper election. In 1959, the federal government established rules and standards that all unions must follow (i.e., Labor-Management Reporting and Disclosure Act of 1959). Elections are most often overturned when these regulations are disregarded or misapplied. Even in cases where the elections are not overturned, failure to follow the required rules and standards, even just the appearance of impropriety, often lead to time consuming and expensive investigations. This article discusses six common problems and mistakes union officials make that lead elections to be overturned.

1. Voter Database Problems

The most common election problems arise from the use of a voter database with incorrect names and addresses. Database errors are most often unintentional (i.e. failure to properly update...) but regardless of the reason for the error the outcome is the same. These types of administrative problems are often costly and time consuming to correct. This is particularly true when conducting a mail ballot election because there is a limited time period for the ballot packets to be issued and returned. Moreover, ballots must be distributed to all members in good standing.

If the database problem is discovered early in the balloting process, however, corrective measures (i.e. re-mailings of ballot packets) can be implemented to avoid disenfranchising voters and having the election overturned. To limit database errors and update voter information, a mailer to all voters should be done a few months prior to the election to allow time to correct and update the voter database.

The use of a bad voter database at onsite elections may also be problematic, causing both delays at the polls and with the release of election results. One way to counter this problem is to always have plenty of challenged ballots available for those whose names do not appear on a voter database. Use of challenged ballots ensures that no voter is turned away at the polls and it allows election administrators to investigate why the voter's name was not on the list.

2. Ballot Errors/Problems

A ballot that is confusing or contains errors may also lead to an election being overturned. Some common ballot problems are misspelled candidate names, unclear instructions and the failure to include a ballot return date. More serious problems include the use of ballot design that may be deemed to favor one candidate over another (e.g., larger font size/bolding one candidate name).

To limit ballot errors, all candidates and/or slates should review the final ballot proof. In addition, union officials are encouraged to access the sample ballot designs and language recommended by the U.S. Department of Labor. Using these sample ballot designs and language is one important way to help ensure compliance.

3. Election Events not Observable—Limited Access & Lack of Transparency

Each phase in the election process must be transparent and observable. If candidates and their representatives are denied this right, it is grounds for overturning the election. This includes the right to have access to all polling locations and where the ballots are tabulated. The right to observe also extends to each phase of the mail balloting process, including the ballot packet preparation, mailing, receipt, opening and tabulation. The best way to avoid this problem is to prepare and issue a detailed scheduling order to all candidates with relevant election dates and times. In addition to preparing and communicating the schedule to all candidates/observers, it is also important that the election calendar is followed and any changes are communicated to the relevant parties in advance. Simply sharing this type of basic information and ensuring that candidates are aware that the process is open and transparent is a low cost but important way to minimize these types of problems.

4. Secrecy of the Ballot Violated

A secret ballot election is required for all union officer elections. Even one violation of ballot secrecy may compromise an entire election. The secrecy of the process and balloting should not be violated by anyone, including neutral administrators or poll workers. Depending on the type of election there are several ways to ensure secrecy. For onsite elections, for instance, privacy booths and voting methods/systems should be utilized. With a mail ballot election, officials should use a ballot packet design (i.e., double envelope system) and opening process that allows for absolute secrecy.

5. Inconsistent Rulings by Election Committee or Administrator

Inconsistent rulings or decisions by the election committee or administrators can compromise the integrity of an election. The requirement that all rulings and decisions be applied consistently extends not only to candidates but to all voting members as well. An example of a common mistake with mail ballot elections, for instance, is to allow some voters to hand deliver a ballot packet and deny that right to others. In many cases, this is done to help last minute voters who are anxious to participate. Regardless, however, the failure to allow all voters to hand deliver their ballot packet makes this an example of an inconsistent application of a rule that can ultimately lead to overturning an entire election.

6. Preservation of Balloting Materials

The U.S. Department of Labor reserves the right to investigate any union officer election. It is essential, therefore, that all balloting materials, records, etc. be properly preserved and stored for a period of at least one year. This helps ensure that, if need be, the DOL can conduct a proper investigation or recount. One common mistake is for the union to assume compliance if they preserve only portions of the balloting materials or records. In fact, federal regulations require preservation of “all” related materials and records (this includes the empty secret ballot envelopes when conducting a mail ballot election!). As a result, it is recommended that the preservation of materials takes place immediately following the election, under observation, and with a sealed and dated container.

The successful administration of union elections is not “rocket science;” however, locals should reach out to their national organizations for guidance and consult, when needed, with neutral third-party elections administrators whenever there is uncertainty as to how to proceed with the process. The Department of Labor has many resources available for unions to avail themselves of at www.dol.gov. Making sure that your election process is on the right track can save thousands of dollars and will minimize confusion and chaos.

9. Adjournment
- B. The order of business may be suspended by a two-thirds vote of the members present.

ARTICLE XII - DUTIES OF LOCAL OFFICERS AND STEWARDS

Section 1 - The officers of the Local shall be:

- A. Local President
- B. Local Executive Vice President
- C. Local Secretary-Treasurer

Section 2 - Local Officers shall hold no other office.

Section 3 - Duties of Local President:

The Local President shall be full-time and shall preside at meetings of the Local and at meetings of the Local Executive Board and shall be responsible for the conduct of the Local including:

1. The prosecution of grievances and appealing them to higher levels of the Union, if not satisfactorily settled.
2. The supervision of all Committees of the Local.
3. The approval of all bills to be paid by the Local Treasurer and to countersign checks drawn on the Treasury of the Local.
4. Select a location for the Local Union Headquarters, where official correspondence will be sent, books and records maintained, and Local

shall be elected by a plurality of votes cast.

- F. Each election year, the Elections Committee shall conduct nominations and Local elections in the following manner:
1. On the second Thursday in September, a notice of nominations shall be posted on the Local's Official Website and all Union bulletin boards Local-Wide. An email will be provided, and the notice shall include the necessary information for submitting nominations including the email address of the Election Chair.
 2. The deadline for receiving nominations will be the second Thursday of October at 11:00 AM Eastern time. All nominations must be made during this time period between the second Thursday in September and the second Thursday in October by emailing the Election Chair.
 3. The election ballots shall be mailed to the members no later than one week after the close of nominations.
 4. The run-off election ballots, if necessary, shall be mailed on the second Thursday of November.
 5. If there is only one (1) nominee for any position, the nominee shall be elected by acclamation. Write-in votes are not permitted.

Common Pitfalls in Conducting Local Elections

CWA staff have identified the following as the most common problems that come up during local elections.

Notification of Nominations Not Handled Properly

Reasonable opportunity for nominating candidates must be provided to accommodate those scheduled to work during nominating meetings or whose worksite is an unreasonable distance from the nominating meeting. Notice of nomination shall be given at least fifteen days prior to the nomination meeting. The CWA constitution requires local nominations be conducted during the months of September, October, November, or December (See page 42 for more information).

No Post Office Box for Mail Ballots

Do not have the ballots mailed to the local office or to an officer's home or the election committee Chair's home. Rent a post office box for the election. Leave the ballots in the post office box until election day.

A Local Officer Picks up Ballots

At least two election committee members should go to the post office box to pick up the ballots. Observers must be given the opportunity to accompany the election committee to the post office to pick up the ballots. A local officer should not pick up the ballots.

Election Committee Does Not Have a Membership List

The Secretary-Treasurer is responsible for providing the election committee with an official membership list. This list must be used to confirm that the individual voting is a member in good standing and to guarantee that each member receives one vote. Every effort should be made to update the list prior to the election.

The Times has been tracking delays in mail delivery. Last week was one of the slowest to date.



By Emily Badger, Quoc Trung Bui and Margot Sanger-Katz

Nov. 2, 2020



Mail-in ballots in US Postal Service containers waiting to be processed by election workers at the Salt Lake County election office in Salt Lake City, Utah, last Thursday. George Frey/Agence France-Presse — Getty Images

The U.S. Postal Service experienced some of its worst delays all year in the final week before the election, according to a Times project tracking first-class. An avalanche of late-arriving political pamphlets and advertisements appears to have added to backlogs for the Postal Service, after months of slowdowns.

The Postal Service reported that its workers have prioritized election mail, and that most ballots that are easily tracked have been processed on time. But there are also signs in the official data that even some ballot processing has slowed as Election Day approached.

The week beginning Oct. 26 was the slowest week recorded for local mail, which the Postal Service aims to deliver within two days. But a delay of even one day for ballots in the final stretch of the presidential election could make the difference between a vote that is counted and one that is not, especially as legal fights continue in crucial states over whether to count ballots that are postmarked before Election Day but arriving after it.

To see how often mail was late, and where in the country the delays have been most profound, [click here](#).

Emily Badger writes about cities and urban policy for The Upshot from the Washington bureau. She's particularly interested in housing, transportation and inequality — and how they're all connected. She joined The Times in 2016 from The Washington Post. @emilymbadger


Quoc Trung Bui is a graphics editor and covers social science and policy for The Upshot. He joined The Times in 2015, and previously worked for National Public Radio covering economics and everyday life. @qdbui

Facebook discussion snip


Frustration over not receiving ballot

Hasn't moved in 13 years

Did receive runoff ballot!


 Shelle Steffler Baldwin
Alex Case DID you ever get the FIRST ONE??? Alot of us never received it ...

Like · Reply · 3h


 Cedric Bradford
Thats for the run off election sis ...

Like · Reply · 4h


 4

 Jodi Rocco Poyntz
Cedric Bradford LOL! ...

Like · Reply · 4h

 Shelle Steffler Baldwin
Cedric Bradford I SEE...thank you for that...did you get an original one in the MAIL???? ...

Like · Reply · 3h

 Cedric Bradford
Shelle Steffler Baldwin yeah , but i also updated my info recently once i moved into my house. ...

Like · Reply · 3h

 1

 Shelle Steffler Baldwin
Cedric Bradford I haven't moved in 13 years ...

Like · Reply · 3h

 1

Office of Labor-Management Standards

Electing Union Officers Using Remote Electronic Voting Systems

OLMS COMPLIANCE TIP

The Labor-Management Reporting and Disclosure Act (LMRDA) establishes democratic standards for conducting regular elections of union officers and elections of delegates who elect officers. The Office of Labor-Management Standards (OLMS), an agency within the Department of Labor, is responsible for enforcing the LMRDA. The LMRDA requires every local labor organization to elect its officers by secret ballot, and every national, international and intermediate labor organization to elect officers by secret ballot among the members in good standing or by representatives chosen by secret ballot. See 29 U.S.C. 481(a), (b), (d). The LMRDA further requires that adequate safeguards to insure 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, 29 U.S.C. 481(c), and that the ballots and all other records pertaining to the election shall be preserved for one year following the election, 29 U.S.C. 481(e). The LMRDA also gives union members who believe that a violation of the election provisions of the LMRDA has occurred the right to file a complaint with the Secretary of Labor.

Purpose of this compliance tip:

This guidance has been developed by OLMS to explain how the LMRDA's requirements apply when implementing remote electronic voting systems in union officer elections. The challenges presented in assuring the secrecy and security of remote electronic voting systems have been well-documented in the context of public elections, which Congress used as the model for union elections under the LMRDA.ⁱ While remote electronic voting has not been widely adopted for public elections, technology to address these challenges has been a matter of extensive study and discussion. Two significant challenges are the tension between maintaining the secrecy of the ballot while ensuring that each eligible member's vote is accurately cast, and ensuring observability for a voting technology that does not necessarily generate "ballots" that can be observed at the "polls" and at their "counting," as the LMRDA provides. Because the technology in this field is evolving, it is difficult to identify definitive solutions that are most likely to permit voting that is in conformance with the LMRDA. Further, new technology is likely to provide additional methods of conducting remote electronic voting consistent with the LMRDA.ⁱⁱ

The specific guidance presented here is based on current technology and the characteristics and design elements of remote electronic voting systems that OLMS has reviewed to date. While all remote electronic voting systems must comply with the LMRDA's requirements, it is possible that solutions other than those identified here would also satisfy these requirements. Thus, OLMS will evaluate each electronic voting system that is the subject of a complaint under title IV of the LMRDA on a case-by-case basis to determine whether it meets the requirements of the statute. If you have questions about remote electronic voting systems, OLMS welcomes you to contact us at olms-public@dol.gov. Moreover, OLMS recognizes that innovative voting technology may be developed that enhances compliance with the requirements of the LMRDA, and OLMS invites such innovative developments to be shared with us, also at olms-public@dol.gov.

Remote electronic voting systems:

The LMRDA does not require a particular method or system of voting. Labor organizations may establish their own methods or systems of voting for officer elections as long as they are consistent with the LMRDA. Some labor organizations, in recent years, have chosen to conduct officer elections using remote electronic voting systems or have expressed interest in using a remote electronic voting system to elect their officers. The term "remote electronic voting systems" is meant to include: (1) electronic voting from remote site personal computers via the Internet; and (2) electronic voting from remote site telephones. It is not meant to include electronic voting machines used for casting votes at polling sites or electronic tabulation systems where votes are cast non-electronically but counted electronically (such as punch card voting or optical scanning systems). As with other voting procedures, remote electronic voting systems may be permissible under the statute so long as they satisfy the LMRDA's standards.

1. Guidance for preserving ballot secrecy:

LMRDA Section 3(k) defines a secret ballot as: “the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.” 29 U.S.C. 402(k). Several court cases make it clear that the requirement of a secret ballot in union officer elections is to be interpreted strictly. Ballot secrecy requires that no person, including an independent third party, have access to information allowing such person to learn how a particular member cast his or her vote at any time. Moreover, a member’s vote must remain secret after the ballot is cast.

One way to help to insure that ballot secrecy is maintained in an electronic voting system is to avoid creating a connection between a voter’s identity and the vote cast, *i.e.*, voters’ names would never be entered into the system as part of the voting credentials (the term “credentials” in this guidance includes the multiple codes used for various purposes in electronic voting systems, including access codes, log-in codes, confirmation codes, etc.). In this way a voter’s identity could never be linked to his or her vote using information in the system. This can be accomplished by determining voter eligibility prior to mailing the voting credentials and by randomly assigning the credentials to each eligible voter. Once this initial eligibility determination is made and the credentials mailed, there can be no mechanism to void or prevent the casting of ballots by any members who were determined to be eligible. Such a system, however, can present logistical challenges. For example, a union may need to provide replacement credentials to members who have not received or have lost their voting credentials or issue such credentials to newly eligible members. If duplicate credentials or other processes are used to resolve these logistical challenges, all material must be secured when not in use and observers must be given the opportunity to observe the processes employed when using the materials.

Systems should employ proper safeguards to prevent a voter from being able to provide visual proof of the content of his/her vote in order to prevent secrecy violations in the form of coercion or vote buying/selling. For example, the system must not display the voter credential and the content of the vote in such a way that it permits the voter to capture and share the image, nor should lists matching voter credentials and the content of the vote be publicly available.

To the extent that technology is developed for public elections that allows for the inclusion of voter-identifying information in a manner that protects vote secrecy, that technology may also be appropriate for use in union elections.

2. Guidance for preserving observer rights:

Section 401(c) of the LMRDA requires that “adequate safeguards to insure 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.” 29 U.S.C. 481(c). This requirement provides for the essential monitoring that votes were cast by eligible union members and that those votes were accurately tallied. In the context of electronic voting systems, in which the “polls” and “tally” are not visible, assuring the integrity of such systems presents challenges.

The Department’s regulations have permitted the conduct of election by mail ballot, as long as safeguards are followed to protect secrecy and to allow observation of specific stages of the election process, namely, the preparation and mailing of the ballots, their receipt by the counting agency, and the opening and counting of the ballots. 29 CFR 452.97, 107(c). Similar procedures in the context of electronic voting, which permit observation and protect the security of the vote from its casting to its counting, must include:

- The opportunity to view the list of members and make eligibility challenges prior to the distribution of voter credentials.
- The opportunity to observe the preparation and distribution of voting credentials to be used by members. Observers must be allowed to view the process, but must not be allowed to see the specific voting credentials that are sent to individual members, which must be kept secret
- The opportunity to observe any later distribution of credentials to members who did not receive or who lost credentials. Again, observers must be allowed to view the process, but must not be allowed to see what specific voting credentials are sent to individual members, which must be kept secret.
- The use of technology that protects the integrity of the vote from the point when it is cast by the voter through the voting process, such as client-side encryption technology, that runs on the voter’s computer or in conjunction with any computer-telephone integration, rather than on the election server.
- The opportunity to observe any steps necessary for the counting of the votes, and any other steps necessary to audit that process.
- The use of technology that provides a secure method of independent vote verification that allows the voter or an observer to confirm that the vote was recorded and counted accurately. Safeguards should be employed, however, to prevent such features from presenting secrecy lapses and opportunities for

voter coercion. Safeguards that could preserve this aspect of observability without compromising vote secrecy may include:

- o Allowing each member to view a printed ballot version of his or her electronic vote, which contains a credential known only to the voter and which is stored in a supervised, secure, observable location. These printed ballots could also be tallied in a supervised, secure, observable location to verify the accuracy of the electronic vote count.
- o Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a non-public list of the electronic votes alongside the credential known only to the voter, stored in a supervised, secure, observable location.
- o Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a posted list that pairs representations of votes (e.g., as hashes or codes that would allow a voter to know that the vote has not been changed but would not reveal the vote choice itself) alongside voter credentials, or representations of voter credentials.

The electronic voting system should contain mechanisms by which observers can verify, prior to an election, that the system is working properly.

The electronic voting system should include hash chains on the activity logs and the ballot box.

The electronic voting system should be audited by an authorized independent party periodically.

For any electronic voting system, there should be a document or documents that specify the security policy for all systems that will come into contact with the voter or vote information. Further, every role and its corresponding access should be clearly specified, using mathematical descriptions where applicable. The security policy should also include a risk assessment, threat analysis, and modifications made to mitigate such risks/threats.

3. Guidance for preserving records:

The electronic votes and any paper versions of the electronic votes, and all other paper and electronic records pertaining to the election, including eligibility lists, the voting credentials, the log files, the time stamped software code used to run the electronic voting system, and the ballot tally results, must be preserved for one year.

4. Guidance for preserving right to vote:

An alternative voting method must be provided, upon request, to any member who does not have access to the electronic voting system.

Remote voting must be implemented in a manner that does not create barriers for individuals with accessibility needs.

REFERENCE

ⁱ Nelson Hastings, et al.: Security Considerations for Remote Electronic UOCAVA Voting. National Institute of Standards and Technology, NISTIR 7770 (February 2011). Available at: <http://www.nist.gov/itl/vote/upload/NISTIR-7770-feb2011-2.pdf>.

ⁱⁱ U.S. Vote Foundation: The Future of Voting: End-to-End Verifiable Internet Voting Specification and Feasibility Assessment Study (July 2015). Available at: <https://www.usvotefoundation.org/E2E-VIV>.

ADDITIONAL RESOURCES

iVote Advisory Committee Final Report, Aug. 21, 2015, Utah Lt. Governor Spencer J. Cox

Peter Haynes, “Online voting, rewards and risks,” Atlantic Council, (2014). Available at: <http://www.atlanticcouncil.org/publications/reports/online-voting-rewards-and-risks>

Barbara Simons and Douglas W. Jones, “Internet Voting in the U.S.” (2012), 55 *Communications of the ACM* 68, <http://cacm.acm.org/magazines/2012/10/155536-internet-voting-in-the-us/fulltext>.

ADDENDUMS



ADDENDUMS

Included in addendums are any answers received during the challenge and appeal process, examples of determinations from the DOL, OLMS to challenges of similar nature, and any other notes or items which I feel would be relevant to the challenges presented. I hope these inclusions will provide an even more complete picture and background for the consideration and decision process.

I would like to note that the only responses I received were from the Election Committee (only official response) and individual members of the then current Executive Board of Local 3641. The Local President chose not to respond or acknowledge the challenges when appealed to the E-Board. However, it is notable that she asked an agent in SDF if anything was posted about the election (screenshots provided in addendums). The agent provided a picture of their union bulletin board showing only candidate posters, which I had mailed to them for posting during the election. The exchange goes on with the Local President stating "The person should have given Nicole all the info since they gave their photos", insinuating since I had provided campaign posters I should bear the responsibility for providing information which the Election Committee should have provided (according to our own Bylaws) through the proper posting of a Notice of Nominations. As for the responses from members of the Executive Board, 6 responses were received all of which supported the challenges and the need for a new election. With or without my vote there was a clear majority of the 9 members of the Executive Board in support of the challenges, with no further action taken.

I wish to note that in addition to RDU and SDF, BNA also did not have a Notice of Nominations posted. This was discovered subsequent to the submission of the challenges. Of the 13 stations comprising Local 3641, 3 are now confirmed to not having the Notice of Nominations posted, and I suspect more. The only stations I can confirm at least one Notice of Nominations posted are CLT and MSY. At the very least, 23% of stations in Local 3641 representing a significant portion of our membership did not have a notice posted. Lack of this notice contradicts the assertion that "every measure was taken to ensure a fair and transparent election", as stated in the Election Committee's answer to the challenges.

I also include a document I found when researching Ballotpoint. It outlines how they provide transparency and observation during elections as required by Section 401(c) of the LMRDA. The LMRDA requires that if an election takes place via remote electronic voting systems that they must provide "a secure method of independent vote verification that allows the voter or an observer to confirm that the vote was recorded and counted accurately." Ballotpoint does provide this technology, however, having the technology available without using it or providing information as to how to access or use it is the same as not providing it all. If one does not KNOW of it's existence then how is one supposed to avail himself of it?

I inquired of Deanna Messer (the Secretary/Treasurer at the time of the election process) if the voter list transmitted to Ballotpoint included emails. This inclusion would have provided individuals voting a means of verifying their own vote. The response to me was she didn't remember but "we do not use that part". If "we do not use that part" then we are NOT using a system which provides a secure method of independent vote verification. She went on to say that the Local does have email addresses for those members that provide them. During the voting process there is not a way to provide an email to Ballotpoint by the individual but it does advise that if an email has been provided (as part of the voter list) then one may login and verify their vote. I would have liked that option as a voter and a candidate, and certainly would have wanted to avail myself of observation rights had I known how or been advised it was even possible to observe when using Ballotpoint electronic voting. This further strengthens my argument included in my challenge of lack of transparency and also further contradicts the Election Committee's assertion, as stated in their response to the challenges, that "every measure was taken to ensure a fair and transparent election." By not providing means of verification and observation our local was in violation of 401(c) of the LMRDA.

Again, I hope these addendums will assist you in coming to a fair, informed decision which will reflect the desire to uphold our Members' rights guaranteed in our Bylaws, CWA Constitution and Federal Code and Regulation. I believe we all share that desire and want to do what is right for the members. I look forward to your determination in this extremely important matter.

From: Richard Lee cwa2020election@yahoo.com
Subject: Local 3641 Appeals
Date: Nov 21, 2020 at 12:11:03
To: Richard A. Garcia rich2317@yahoo.com

Richard,

On the evening of November 19, 2020 the Election Committee of Local 3641 voted on the two appeals that we received for the results that were posted on November 5, 2020.

All three voting members of the committee agreed (3 to 0) to deny both appeals. All members of the committee felt strongly that **every measure** was taken to ensure a fair and transparent election.

Sincerely,
Richard Lee
Election Chair

Andrea Carlton-Jones
Palma Grimes
Paul Zoll

Re: Challenge Appeal To Local 3641

From: rpenistoncwa@yahoo.com (rpenistoncwa@yahoo.com)

To: rich2317@yahoo.com; rich2317@yahoo.com; z.marvincwa@gmail.com; dmessercwa@yahoo.com; brent_baldwin@carolina.rr.com; jenfly4@live.com; angiekarpeh@yahoo.com; azad.sadia@gmail.com; johnpascucci@bellsouth.net

cc: vhardy@cwa-union.org; matodorov@mmm.com

Date: Monday, November 30, 2020, 03:35 PM EST

Good Day to All,

I agree that the November 5, 2020 election results for Local 3641 be set aside based on the information, documents and exhibits presented. Local dues paying members should not be disenfranchised from exercising their right to vote. Several missteps during the election period occurred and should be rectified and can be with a new election.

Sincerely,

Ruth Peniston
Executive Vice President
CWA Local 3641

On Mon, Nov 23, 2020 at 3:55 PM, Richard A Garcia
<rich2317@yahoo.com> wrote:

Good Afternoon All,

This email shall serve as my appeal of the Election Committee's decision regarding my recently submitted Challenge to the Local's election for which tentative certified results were posted November 5, 2020. I ask that the Executive Board familiarize themselves with the content of my challenge and vote on the matter at the earliest date as is feasible.

Should the Board feel a meeting is necessary for discussion of this matter I would ask that individual Board members, in an adequate number to create a preponderance of members, request a meeting so that it may be held within 10 days of official requests proffered by a majority of the Board.

Should the Board feel that review of the challenge with included supporting documents and exhibits is sufficient for a vote without discussion of the matter, I would ask the Officers of the Board to take necessary actions to hold and record votes on the matter via email. I would further ask any obligatory actions be taken so as to stipulate that such a vote would be the official decision of the E-Board with a formal decision rendered in writing to the Complainant (in this case, me, Richard Garcia, on behalf of all affected by challenge allegations).

Please find attached a copy of my challenge including supporting documents and exhibits. Also attached is a copy of the Election Committee's decision rendered to me via email on November 21, 2020.

I look forward to an expeditious decision on this very important matter.

This message contains confidential information and is intended only for the individual named. If you are not the named addressee please delete this email immediately and notify the sender. Information contained

Re: SDF Appeal to Local 3641

From: Deanna Messer (dmessercwa@yahoo.com)

rich2317@yahoo.com; johnpascucci@bellsouth.net

z.marvincwa@gmail.com; rpenistoncwa@yahoo.com; jentfly4@live.com; angiekarpeh@yahoo.com; brent_baldwin@carolina.rr.com; azad.sadia@gmail.com; vhardy@cwa-union.org; todorove@hotmail.com; fisher.n@gmail.com

Date: Tuesday, November 24, 2020, 05:32 PM EST

I agree with John. If that many people didn't get a ballot, and thats just the ones we know of, we should re-do the vote. Almost an entire station didn't receive a ballot. That's not right and needs to be corrected. All members have the right to vote.

I don't need to have a discussion, unless others want to. The documents look pretty self explanatory to me.

Deanna Messer
Cwa 3641
Secretary/Treasurer
(704)665-9940

On Monday, November 23, 2020, 05:26:57 PM EST, John Pascucci <johnpascucci@bellsouth.net> wrote:

Although I have great confidence in the election committee if mistakes were indeed made they need to be corrected and the voting redone.

Sent from my iPad

On Nov 23, 2020, at 4:07 PM, Richard A Garcia <rich2317@yahoo.com> wrote:

Good Afternoon All,

This email shall serve as the appeal submitted by Nicole Younkin on behalf of agents in SDF of the Election Committee's decision regarding the recently submitted Challenge to the Local's election for which tentative certified results were posted November 5, 2020. We ask that the Executive Board familiarize themselves with the content of this challenge and vote on the matter at the earliest date as is feasible.

Should the Board feel a meeting is necessary for discussion of this matter we would ask that individual Board members, in an adequate number to create a preponderance of members, request a meeting so that it may be held within 10 days of official requests proffered by a majority of the Board.

Should the Board feel that review of the challenge with included supporting documents and exhibits is sufficient for a vote without discussion of the matter, we would ask the Officers of the Board to take necessary actions to hold

Re: SDF Appeal to Local 3641

From: Sadia Azad (azad.sadia@gmail.com)

To: rich2317@yahoo.com

cc: dmessercwa@yahoo.com; johnpascucci@bellsouth.net; z.marvincwa@gmail.com; rpenistoncwa@yahoo.com; jenfly4@live.com; angiekarpeh@yahoo.com; brent_baldwin@carolina.rr.com; VHardy@cwa-union.org; todorove@hotmail.com; fisher.n@gmail.com

Date: Wednesday, November 25, 2020, 10:10 AM EST

I concur with John and Deanna. Every vote counts and these folks didn't get a chance to make their voices heard. That's not fair.

Sadia Azad

CWA 3641 - Area Rep

704-241-3810

azad.sadia@gmail.com

On Nov 24, 2020, at 6:15 PM, Rich Garcia <rich2317@yahoo.com> wrote:

John,

It is in the bylaws that it is the member's responsibility to notify of address change. However, that does not relieve the local from taking reasonable effort (and according to the CWA's publication, EVERY effort) to ensure an accurate voter database under federal law (LMRDA). In waiting until a month or two prior to the election to request members verify their correct address (and I dispute that even that small action was taken local wide) I would say that does NOT satisfy a reasonable effort and certainly doesn't satisfy every effort. As my challenge states, the local could have been reminding members at membership meetings (if we had been having them on a regular basis) and the E-Board could have discussed and implemented actions to more thoroughly assist the Election Committee in advising the ENTIRE membership to verify addresses with the local (again, had we been having regular E-Board meetings as required by our bylaws). This again in my opinion does not satisfy the reasonable effort test. In addition, by not posting a notice of nominations on every bulletin board local wide (as required by our bylaws), we again violated federal regulation and our own bylaws. A notice of nominations was not posted in SDF or RDU as noted in my challenge. After I submitted the challenge I also found that the notice was not posted in BNA. This is unacceptable and does not come close to a reasonable effort to ensure a fair election where all members in good standing get a chance to nominate and vote, as required by federal regulation.

This message contains confidential information and is intended only for the individual named. If you are not the named addressee please delete this email immediately and notify the sender. Information contained within this email and any attachments may not be forwarded, copied, or otherwise disseminated in any way without the express written permission of the sender

Richard A. Garcia

On Tuesday, November 24, 2020, 05:51:23 PM EST, John Pascucci <johnpascucci@bellsouth.net> wrote:

It is possible that for some reason the election committee did not have the correct addresses for some people that did not receive their ballot. It is the responsibility of employees to make sure their address records are correct.

Re: Challenge Appeal To Local 3641

From: Jennifer Swingle (jenfly4@live.com)

To: rich2317@yahoo.com

Date: Monday, November 23, 2020, 04:53 PM EST

Upon review of both challenges, as I am familiar with the situation in SDF, I elect to uphold both challenges and believe a new election is in order.

Jennifer Swingle
CWA Local 3641
Area Representative

Sent from my iPhone

On Nov 23, 2020, at 3:55 PM, Richard A Garcia <rich2317@yahoo.com> wrote:

Good Afternoon All,

This email shall serve as my appeal of the Election Committee's decision regarding my recently submitted Challenge to the Local's election for which tentative certified results were posted November 5, 2020. I ask that the Executive Board familiarize themselves with the content of my challenge and vote on the matter at the earliest date as is feasible.

Should the Board feel a meeting is necessary for discussion of this matter I would ask that individual Board members, in an adequate number to create a preponderance of members, request a meeting so that it may be held within 10 days of official requests proffered by a majority of the Board.

Should the Board feel that review of the challenge with included supporting documents and exhibits is sufficient for a vote without discussion of the matter, I would ask the Officers of the Board to take necessary actions to hold and record votes on the matter via email. I would further ask any obligatory actions be taken so as to stipulate that such a vote would be the official decision of the E-Board with a formal decision rendered in writing to the Complainant (in this case, me, Richard Garcia, on behalf of all affected by challenge allegations).

Please find attached a copy of my challenge including supporting documents and exhibits. Also attached is a copy of the Election Committee's decision rendered to me via email on November 21, 2020.

I look forward to an expeditious decision on this very important matter.

Re: SDF Appeal to Local 3641

From: **John Pascucci** (johnpascucci@bellsouth.net)

To: rich2317@yahoo.com

CC: z.marvincwa@gmail.com; rpenistoncwa@yahoo.com; dmessercwa@yahoo.com; jenfly4@live.com; angiekarpeh@yahoo.com; brent_baldwin@carolina.rr.com; azad.sadia@gmail.com; vhardy@cwa-union.org; todorove@hotmail.com; fisher.n@gmail.com

Date: Monday, November 23, 2020, 05:26 PM EST

Although I have great confidence in the election committee if mistakes were indeed made they need to be corrected and the voting redone.

Sent from my iPad

On Nov 23, 2020, at 4:07 PM, Richard A Garcia <rich2317@yahoo.com> wrote:

Good Afternoon All,

This email shall serve as the appeal submitted by Nicole Younkin on behalf of agents in SDF of the Election Committee's decision regarding the recently submitted Challenge to the Local's election for which tentative certified results were posted November 5, 2020. We ask that the Executive Board familiarize themselves with the content of this challenge and vote on the matter at the earliest date as is feasible.

Should the Board feel a meeting is necessary for discussion of this matter we would ask that individual Board members, in an adequate number to create a preponderance of members, request a meeting so that it may be held within 10 days of official requests proffered by a majority of the Board.

Should the Board feel that review of the challenge with included supporting documents and exhibits is sufficient for a vote without discussion of the matter, we would ask the Officers of the Board to take necessary actions to hold and record votes on the matter via email. We would further ask any obligatory actions be taken so as to stipulate that such a vote would be the official decision of the E-Board with a formal decision rendered in writing to the Complainant (in this case, Nicole Younkin and Richard Garcia, on behalf of all affected by challenge allegations).

Please find attached a copy of the challenge including supporting documents and exhibits. Also attached is a copy of the Election Committee's decision rendered via email on November 21, 2020.

We look forward to an expeditious decision on this very important matter.

This message contains confidential information and is intended only for the individual named. If you are not the named addressee please delete this email immediately and notify the sender. Information contained within this email and any attachments may not be forwarded, copied, or otherwise disseminated in any way without the express written permission of the sender

U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON, DC 20210

DETERMINATION

Determination of a Complaint Filed under Title IV
of the Labor-Management Reporting and Disclosure Act of 1959

On December 26, 2018, the Secretary of Labor received a complaint alleging violations of Section 401 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), in the regularly scheduled election of officers conducted on December 14, 2018, by American Postal Workers Union Local 67 in Kansas City, Missouri.

Pursuant to Sections 402 and 601 of the LMRDA, the Department of Labor conducted an investigation. The investigation disclosed that the union **failed to provide notice of nominations** reasonably calculated to inform all members of the correct date for of the nominations meeting, as well as the deadline for submitting written nominations, when it failed to mail notice to 369 members. The union also failed to ensure all members were informed of the correct date of the nominations meeting after the date was changed. The union emailed and texted some members the former date and allowed the former date to remain on its website.

Apprised of these findings, American Postal Workers Union Local 67 agreed to conduct new nominations and a new election of officers under the supervision of the Secretary of Labor, in accordance with Title IV of the LMRDA. The agreed upon remedial election was concluded on May 29, 2019. It is, therefore,

DETERMINED, that there is probable cause to believe that violations of Title IV of the LMRDA occurred which may have affected the outcome of the election conducted by American Postal Workers Union Local 67 on December 14, 2018, but that these violations have been remedied by the new election, conducted in accordance with Title IV of the LMRDA, under the supervision of the Secretary of Labor, on May 29, 2019.

Therefore, civil action under Section 402(b) of the LMRDA to set aside the election conducted on December 14, 2018 is not warranted.

Signed August 6, 2019.

Brian A. Pifer
Chief, Division of Enforcement

U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON, DC 20210

DETERMINATION

Determination of Complaints Filed under Section 458.63 of the Standards of Conduct Regulations (29 CFR 458.63) issued pursuant to Section 7120(d) of the Civil Service Reform Act of 1978 (5 U.S.C. 7120(d))

On March 26, March 28, April 8, and April 10, 2019, the Secretary of Labor received complaints alleging violations of Section 458.29 of the Standards of Conduct Regulations (Regulations) issued pursuant to Section 7120(d) of the Civil Service Reform Act of 1978, in the regularly scheduled election of officers conducted on December 4, 2018, by American Federation of Government Employees Local 2110 in Palo Alto, California.

Pursuant to Section 458.50 of the Regulations, the Chief of the Division of Enforcement of the Office of Labor Management Standards (OLMS) caused an investigation to be conducted by the Department of Labor. The investigation disclosed that the conduct of the challenged election may have violated Section 458.29 of the Regulations in that the union failed to mail notice of election to all members; failed to provide members ballots containing the correct bargaining unit vice president position; and failed to provide a proper notice of nominations.

Apprised of these findings, American Federation of Government Employees Local 2110 agreed to conduct new nominations and a new election of officers under the supervision of the Chief of the Division of Enforcement, in accordance with Section 458.29 of the Regulations. The agreed upon remedial election was concluded on September 6, 2019. It is, therefore,

DETERMINED, that there is probable cause to believe that violations of Section 458.29 of the Regulations occurred which may have affected the outcome of the election conducted by American Federation of Government Employees Local 2110 on December 4, 2018, but that these violations have been remedied by the new election, conducted in accordance with Section 458.29, under the supervision of the Chief, Division of Enforcement, OLMS, on September 6, 2019.

U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON, DC 20210

DETERMINATION

Determination of a Complaint Filed under Section 458.63 of the
Standards of Conduct Regulations (29 CFR 458.63) issued pursuant to
Section 7120(d) of the Civil Service Reform Act of 1978 (5 U.S.C. 7120(d))

On February 6, 2019, the Secretary of Labor received a complaint alleging violations of Section 458.29 of the Standards of Conduct Regulations (Regulations) issued pursuant to Section 7120(d) of the Civil Service Reform Act of 1978, in the regularly scheduled election of officers conducted on December 6, 2018, by American Federation of Government Employees Local 1923 in Baltimore, Maryland.

Pursuant to Section 458.50 of the Regulations, the Chief of the Division of Enforcement of the Office of Labor Management Standards (OLMS) caused an investigation to be conducted by the Department of Labor. The investigation disclosed that the conduct of the challenged election may have violated Section 458.29 of the Regulations in that the union **failed to provide proper notice of nominations**; the union failed to provide adequate safeguards to ensure a fair election; **union members were denied the right to vote**; and **candidates were denied the right to have observers**.

Apprised of these findings, American Federation of Government Employees Local 1923 agreed to conduct new nominations and a new election of officers under the supervision of the Chief of the Division of Enforcement, in accordance with Section 458.29 of the Regulations. The agreed upon remedial election was concluded on January 30, 2020. It is, therefore,

DETERMINED, that there is probable cause to believe that violations of Section 458.29 of the Regulations occurred which may have affected the outcome of the election conducted by American Federation of Government Employees Local 1923 on December 6, 2018, but that these violations have been remedied by the new election, conducted in accordance with Section 458.29, under the supervision of the Chief, Division of Enforcement, OLMS, on January 30, 2020.

Therefore, enforcement proceedings under Section 458.66 of the Regulations to set aside the election conducted on December 6, 2018 are not warranted.

Signed March 17, 2020.



Brian A. Pifer
Chief, Division of Enforcement

U.S. DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
WASHINGTON, DC 20210

DETERMINATION

Determination of Complaint Filed under Title IV
of the Labor-Management Reporting and Disclosure Act of 1959

On May 3, 2019, the Secretary of Labor received a complaint alleging violations of Section 401 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), in the regularly scheduled election of officers concluded on December 11, 2018, by International Longshore and Warehouse Union Local 26 in Los Angeles, CA.


Pursuant to Sections 402 and 601 of the LMRDA, the Department of Labor conducted an investigation. The investigation disclosed that the union failed to provide proper notice of election, denied eligible members the right to vote, failed to hold nominations and an election for an officer position, **failed to provide adequate safeguards, failed to follow its constitution and by-laws,** and denied a member the right to inspect the union membership list.

Apprised of these findings, International Longshore and Warehouse Union Local 26 agreed to conduct new nominations and a new election of officers under the supervision of the Secretary of Labor, in accordance with Title IV of the LMRDA. The agreed upon remedial election was concluded on September 30, 2019. It is, therefore,

DETERMINED, that there is probable cause to believe that violations of Title IV of the LMRDA occurred which may have affected the outcome of the election conducted by International Longshore and Warehouse Union Local 26, which concluded on December 11, 2018, but that these violations have been remedied by the new election, conducted in accordance with Title IV of the LMRDA, under the supervision of the Secretary of Labor, on September 30, 2019.

Therefore, civil action under Section 402(b) of the LMRDA to set aside the election concluded on December 11, 2018 is not warranted.

Signed December 3, 2019.


Brian A. Pifer
Chief, Division of Enforcement

Screenhots provided by Nicole Yonkin of texts between Mattier Marvin, Pres. of Local 3641, and an ID agent. Z's phone number is indicated as the initiator at top of each shot.

(803) 207-0348 Mobile

Any signs that said CWA election ?

Yes, however they're was nothing telling how to or when to vote.

Ok

Thursday 2:53 PM

Thanks
I don't know how that happened.
But I'm sorry you guys didn't receive ballots
The person should have given Nicole all the info since they gave their photos
Ballot will say CWA election when it does come
Many in CLT ATL and SAV did not get ballots either.
Take care and stay well.

→ This was the Election Committee's job

→ When it does come? The election was already over.

(803) 207-0348 Mobile



I want to clear something up with you. When you asked me if it was posted about there being an election, i honestly believed that the information posted indicated that there was to be an election. After returning to work after being off for six days, i checked the bulletin board only to find that the word "election" isn't there.

Congratulations to the American Airlines Team for earning Air Transport World's Airline of the Year award.



Close-up picture of SDF bulletin board showing no Notice of Nominations posted



BallotPoint Guide for Observers

Introduction

Section 401(c) of the Labor-Management Reporting and Disclosure Act (LMRDA) provides that any candidate for union office has the right to designate one or more observers to represent the candidate's interests.

The responsibility of the observer is to verify the election process and, as appropriate, ask procedural questions of election officials, challenge the eligibility of individual voters or the manner in which votes are counted, and lodge protests with election officials.

Please see: http://www.dol.gov/esa/olms/regs/compliance/observer_fact.htm for more information regarding the rights and responsibilities of observers.

The remainder of this document describes how an election observer accesses data in the BallotPoint system, what information is available to observers, and procedures that observers can follow to verify proper conduct of an election before, during, and after the election.

But First: Observation at the Member-Level

Before proceeding with the description of BallotPoint support for candidate-assigned observers, it is important to note that the BallotPoint system provides observation all the way down to the member-level. Members may review their account activity logs at any time, to check that nothing out of the ordinary is occurring with their accounts. Each member can verify that administrators are not inappropriately viewing the member's account activity, changing eligibility status, issuing new voting credentials on behalf of the member, or voiding that member's votes.

For each member with an email address in the latest uploaded member-list, the member is emailed a notification each time a major event occurs on that member's account. Major events include: activation code replaced; account activated; PIN changed; and vote recorded. Members should contact the election committee whenever an email is received for an action not performed or approved by the member.

Observer Access to Information Stored in the BallotPoint System

Depending on how the union conducts business, observers wishing to inspect any of the information described in this document may do so by contacting the election committee and either scheduling times when such inspections can take place or by receiving login credentials to the BallotPoint system to view information at the observer's convenience.

Any information viewed outside the direct control of an election committee representative will be scrubbed, ensuring that no confidential information (e.g., member mailing or email addresses) is divulged.

Furthermore, BallotPoint has an open invitation to any union member, including candidates and observers, to visit our Portland, OR facility at any time. BallotPoint firmly believes that any time spent *educating union members about safe voting processes strongly promotes the spirit of the democratic self-government called for by the LRMDA.*

Information Available to Observers

The BallotPoint system produces several reports to document key aspects of election administration and voting. An observer is permitted to view the reports described below.

- **Member-Lists** – all membership lists that have been uploaded for the election. This allows the observer to see: exactly what members have been included in each member-list; whether at any time during the election a member was included or excluded; whether member eligibility status was changed; and, if the observer is working alongside an election committee member, what address information was used to mail election notices or to email notifications. The date/time of a member-list upload and the name of the administrator that performed the upload are included. (available anytime)
- **Eligibility-Change Log** – a detailed list of changes to eligibility of member-accounts with respect to the observed election. The report includes the name of the member whose account status was changed, the new eligibility status, the date/time of the change, and the name of the administrator who performed the operation. (available anytime)
- **Participation** – a list of the number (not names) of eligible voters who have cast ballots in this election, up to the present. Before the tally occurs, the report shows only the number of votes cast and the number of votes cast by phone or internet. After the election is tallied, this report also shows participation broken down by member voting-attributes. (available anytime)
- **Support Requests** – the full text of support requests sent by election administrators to BallotPoint, for issues relating to this election. Support requests are specially designed so administrators can be specific in describing some BallotPoint-related procedural issue, while guarding the anonymity of voters. (available anytime)
- **Void-Ballot Proposal** – a list of voters who cast ballots in this election, but who are currently marked as “ineligible” for this election. This report is available only *after* the election closes and *before* the election administrator clicks a screen button to mark that Yes, the votes made by *all and only* those voters appearing in this report should be removed before tallying the results. Use **this report along with the Who-Voted Report to verify that votes by only those members in good-standing were counted, and that votes by those not in good-standing were not counted.**
- **Who-Voted Report** – a list of members who have voted in this election. This report is available after the election closes, and can be used as a starting point when generating a list of challenged-ballots. Any member who is on this list but is not in good-standing with the union should have his or her vote voided. Members seeking to verify that their votes were actually logged can have an observer verify that their votes were included in this report. Note that it is possible for someone to be in the Who-Voted Report but not in the last member-list. In this case, the member was included in an earlier list and voted, but was dropped before the last list was submitted. The name of this individual will appear in the Void-Ballot Proposal (see above).

Duties After the Election

Once the election has closed the observer may be present where the final results are tallied. At this time, observers may:

- Verify the completeness and accuracy of the final member-list and the final eligibility status of all members.
- View the Who-Voted Report to verify that any member not in good-standing who has cast a vote is marked as ineligible. Marking a member as ineligible causes that member's vote to not be counted in the tally.
- Examine the proposed list of ballots to void, to verify that votes of each listed member should indeed be voided (i.e., not counted). If it is agreed that a vote listed in the report should not be voided, then the election administrator can immediately change the eligibility of the corresponding member to "participant," and then re-run the Void Ballots function to generate a fresh void-ballot proposal.
- Examine the proposed list of ballots to void, to verify that it includes all who voted (as shown in the Who-Voted Report) but who are not in good-standing. The election administrator can change the eligibility of these members to "ineligible," and then re-run the Void Ballots function to generate a fresh void-ballot proposal.

Recommendation: *A day before the election closes, the scope of the ballot-voiding process can be estimated by determining how many members were marked as eligible at some point during the election, but are currently marked as ineligible. This is the maximum number of names to be considered during the void-ballot process. To avoid delays in producing the tally after the election closes, assume that each of these members voted, and determine whether removing such votes would be valid.*

Important: *Once the election administrator has issued the command to void the ballots shown in the void-ballot proposal, it can be a lengthy process requiring assistance from BallotPoint Election Services to un-do the command, if even permitted at all. Once the election is tallied, any errors made during ballot-voiding cannot be corrected.*

Important: *Once the election has been tallied, BallotPoint will not allow any changes to the election. Specifically: the election cannot be re-opened to allow additional members to vote; additional member-lists cannot be uploaded; and ballots cannot be voided or un-voided. Once the tally is performed, the election results are final.*

A Final Comment

Careful observation of the data and processes described in this guide provide extensive visibility into and oversight of the conduct of an election. However, there are election processes occurring outside the BallotPoint system, and methods for observing those processes are outside the scope of this guide.

Communications
Workers of America
District 3
AFL-CIO

Alabama, Florida, Georgia,
Kentucky, Louisiana, Mississippi,
North Carolina, South Carolina,
Tennessee, Puerto Rico

3516 Covington Highway
Decatur, Georgia 30032
404-296-5553
Fax 404-299-6165



VIA E-MAIL

January 22, 2021

Zattier Marvin, President
CWA Local 3641
180 Snead Road
Fort Mill, SC 29715

Re: Challenge to Local 3641 Election

Dear President Zattier:

As you are aware, Local 3641 member Richard Garcia submitted an appeal to me regarding the results of the 2020 Local 3641 Executive Board to me. Pursuant to Article XV, Section 4(b) of the CWA Constitution, decisions on election challenges at the local union level are appealed to the geographic CWA Vice President for review. Mr. Garcia's submission to me, however, is not an "appeal" per se, given that the documentation he submitted to me reflects a decision by a majority of the Local 3641 Executive Board to sustain his challenge to the 2020 executive board election. In other words, Mr. Garcia prevailed before the Local's Executive Board. I have reviewed his submission, and conclude that the decision of the Local 3641 Executive Board to sustain his challenge should be enforced.

Mr. Garcia's documentation reflects that he submitted a timely election challenge to the Local 3641 Election Committee following its November 5, 2020 certification of the election results. On November 21, 2020 the Election Committee notified Mr. Garcia that his challenge was denied. On November 23, 2020 Mr. Garcia appealed that decision to the Local 3641 Executive Board by e-mailing its members and requesting either a meeting of the Executive Board members or a poll by e-mail. In our recent correspondence you confirmed that for various reasons the Local has not conducted an Executive Board meeting in over a year. Between November 23 and November 30, 2020, however, a majority of the Local Executive Board responded to Mr. Garcia's appeal indicating that they voted to overrule the Election Committee and sustain his challenge to the election. In the circumstances, I find that the results of the e-mail poll constitute a decision by the majority of the Local 3641 Executive Board on Mr. Garcia's challenge.



Again, I am not granting an "appeal" by Mr. Garcia, as the decision of the Local's Executive Board was in favor of sustaining his challenge. In the absence of any action by the Local to act, however, I am directing that the decision of the Local's Executive Board sustaining Mr. Garcia's challenge be implemented. The 2020 Local 3641 Election Committee is directed to take steps to hold a re-run election as soon as practicable.

In Unity,

A handwritten signature in black ink, appearing to read "Richard Honeycutt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Richard Honeycutt
Vice President – District 3

cc: Richard Lee, Local 3641 Election Committee
Richard Garcia