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ARMAND E. SABITONI
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SERGIO RASCON

ROBERT F. ABBOTT

SAMUEL STATEN, JR.

PAUL V. HOGROGIAN

THEODORE T. GREEN
General Counsel

HEADQUARTERS:
905 16th Street, NW
Washington, DC
20006-1765
202-737-8320
Fax: 202-737-2754
www.liuna.org

March 24, 2020

TO ALL LIUNA AFFILIATES IN THE UNITED STATES AND CANADA

Re: Effect of COVID-19 on 2020 Nomination and Elections

Dear Brothers and Sisters:

Events are moving quickly. Among many other matters, this is true for our regular union officer elections. Two weeks ago, it seemed reasonable to think that our elections could be held in the normal way if adequate arrangements were made. My March 13, 2020, letter was based on this belief. However, as you are all too well aware, circumstances continue to change quickly. We must revisit the election question in light of those changed circumstances. Although this letter is framed in terms of U.S. law, it is our longstanding policy to employ the same election procedures in the United States and Canada.

The Centers for Disease Control Guidance on community spread of COVID-19 states that, in the case of an outbreak in your community, it is advisable to “limit close contact with others as much as possible (about 6 feet).” To prevent further spread of the disease and undue pressure on our health care system, many state and local governments have established recommended or, in some areas, mandatory instructions for residents to “shelter at home” and avoid engaging in gatherings of any size. Mandatory orders carry the force of law for and, if violated, may result in penalties.

On March 17, 2020, the Department of Labor (DOL) issued its guidance about the impact of COVID-19 on union officer elections (**attached**). In this Advisory, the DOL stated that unions “must still make a good faith effort” to conduct officer elections within legal timeframes; and yet, “due to the disruption caused by COVID-19,” the DOL recognized that “it may be difficult or impossible for some unions to conduct timely union officer elections.” Thus, it has announced an enforcement policy that will take delays “attributable to COVID-19” into account.

Specifically, the DOL has said that if it receives a complaint based solely on the failure of a union to hold a timely election, and the election has been completed by the time the complaint is received, it will take no enforcement action. Where an election has not yet been completed, and the union can show that the delay is “attributable to COVID-19,” the DOL will seek a settlement (or “voluntary compliance”) agreement to “hold the election when practicable on a date certain.” If an election is then held in compliance with the settlement agreement, the DOL has stated it will not undertake a civil enforcement action, that is to say, it will not file suit against a union.

Feel the Power



In recognition of this DOL Advisory, current public health conditions, and the wide variation in local government responses and orders that may be extended into April, May and possibly beyond, LIUNA affiliates will have two options for conducting officer elections this year:

- (1) I hereby grant a general constitutional variance permitting affiliates to postpone elections until June (nominations) and July (election), so long as:
 - (a) Executive Boards of affiliates authorize the new schedule; and
 - (b) Affiliates provide adequate notice to members of the delayed nomination and election schedule;
- (2) Alternatively, I hereby grant a general constitutional variance for affiliates to conduct election by mail on their current schedule, so long as:
 - (a) Executive Boards of affiliates authorize the conduct of the election process by mail; and
 - (b) Affiliates timely and properly notify all members in good standing of the change and all relevant procedures for participation by mail, including the date certain by which all mail-in election ballots are to be received at the Local Union's specially designated P.O. Box.

The notice of the changes in the nomination and election process can be set forth in the notices for nominations and election but must be adequate to explain to members why there have been changes to the normal nomination and election process and the nature of those changes.

We recognize that even a June/July nomination and election schedule may prove too optimistic for those choosing the first alternative. Accordingly, we will revisit this issue if and when appropriate. For those affiliates conducting their election on a delayed basis this year, be advised that you will return to the normal election cycle for your next election.

Of course, the major advantage of the second alternative, mail balloting, will be to complete the election cycle more quickly and to meet member expectations that the election will be conducted this Spring. Those taking this option will want to pay close attention to the DOL's Guidance on Electing Local Union Officers by Mail, which may be found here: <https://www.dol.gov/olms/regs/compliance/elecbymail.htm>. The LIUNA Election Guide provides additional guidance on conducting elections and nominations by mail, at Section 10 and Appendix C (1), and it is available here: [LIUNA Election Guide](#).

In some areas the counting of the ballots will complicate the use of the mail ballot option. The statute requires that candidates be allowed watchers at the counting of the ballots. In

areas requiring sheltering in place or prohibiting meetings of more than, for example, ten, it may be impossible to assemble to count the ballots. Some Local Unions conducting mail balloting therefore may need to arrange with the Post Office to leave those ballots in the P.O. Box rented for the purpose for an additional period of time, possibly 30 days, until the prohibition on gatherings is lifted.

Those conducting elections by mail will need to give special consideration to the nominations process. While accepting nominations by mail is possible, we believe conducting the nominations meeting by teleconference is the better alternative. Teleconference will allow for the normal setting of officer salary and other compensation and will allow all participants to know who is being nominated and seconded by others. Regional Offices will work with affiliates to identify the commercial arrangements for teleconferencing that will best serve affiliate needs.

Those choosing to use mail balloting without holding nominations by teleconference may also arrange for nominations by mail. In this case, members should be notified that nominations must be received in the mail by a specific date, that the nominee and those providing seconds must be clearly identified and there must be a statement from the nominee of the acceptance of nomination. The notice of nomination (by mail) must provide that the normal constitutional rules will be applied. For example, nominations are taken first for the office of President. A person nominated for and accepting nomination for the office of President will be ineligible for nomination for any other office. The notice should include the details and schedule for the examination of nominee eligibility. Those conducting mail nomination meetings may set salary and other compensation at the first in-person regular membership meeting after the election.

The constitutional date for District Council elections is in August. We do not envision any need for altering the timing for those elections at this time.

Affiliates must advise the Regional Office of their decision to conduct the election process either on a delayed basis or by mail as soon as possible. The International Union and our Regional Offices stand ready to assist affiliates both in making this decision and in implementing their choice.

Wishing that everyone stays safe and well, I am

Fraternally yours,



TERRY O'SULLIVAN

General President

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Attachment

United States Department of Labor

Office of Labor-Management Standards

Office of Labor-Management Standards (OLMS)

OLMS News

Number 02-20

March 17, 2020

Advisory on Union Officer Elections and Public Disclosure Reporting in Areas Affected by the Coronavirus (COVID-19)

Due to the Coronavirus (COVID-19), the Department of Labor's Office of Labor-Management Standards (OLMS) issues this advisory regarding the labor union officer election requirements under Title IV and the reporting requirements of Title II of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). OLMS recognizes that due to the disruption caused by COVID-19, it may be difficult or impossible for some unions to conduct timely union officer elections. Similar difficulties may confront unions, labor relations consultants, and employers faced with public disclosure filing requirements. OLMS issues this advisory for those unions, employers, or labor relations consultants affected by COVID-19.

Elections: The LMRDA requires that all national and international labor unions elect their officers not less often than every five years. Officers of intermediate bodies, such as general committees, system boards, joint boards, joint councils, conferences, and certain districts, district councils and similar organizations, must be elected at least every four years, and officers of local labor unions not less often than every three years. See the OLMS [Electing Union Officers](#) publication for further information.

Labor unions affected by COVID-19 must still make a good faith effort to conduct officer elections within LMRDA timeframes. OLMS has jurisdiction to file a civil enforcement action concerning a failure to hold a timely election after receipt of a complaint from a union member who has first sought a remedy from his or her union. If OLMS receives a complaint from a union member solely regarding a union's failure to hold an election within the LMRDA timeframes, but the election has been completed prior to OLMS receipt of the complaint, then OLMS will take no enforcement action. If OLMS receives a complaint regarding a union's ongoing failure to hold an election, and that failure was attributable to COVID-19, OLMS will promptly seek a voluntary compliance agreement with the union. The agreement would require the union to hold the election when practicable on a date certain. With such an agreement, OLMS will not seek a civil enforcement action based on the complaint, provided the election is held in conformance with the agreement.

Public Disclosure Reports: Labor unions, labor relations consultants, and employers affected by COVID-19 must make a good faith effort to file required public disclosure reports required public disclosure reports. The failure to file a timely and complete report is an ongoing violation of the LMRDA. OLMS has jurisdiction to file a civil enforcement action concerning a failure to meet reporting requirements. OLMS will not, however, pursue a civil enforcement action with regard to a delinquent or deficient report when these reporting violations are attributable to COVID-19. Unions, employers, and labor relations consultants wishing to take advantage of this enforcement policy should contact OLMS before the report is due, describe the circumstances necessitating additional time, and provide a date certain by which the report can reasonably be submitted. Under these circumstances, OLMS will not lodge a civil enforcement action to obtain the delinquent or deficient report.

Last Updated: 3-17-20