

§ 452.95

there is an obligation on the labor organization to conduct its periodic election of officers in such a way as to afford all its members a reasonable opportunity to cast ballots. A union may meet this obligation in a variety of ways, depending on factors such as the distance between the members' work site or homes and the polling place, the means of transportation available, the nature of the members' occupations, and their hours of work. A reasonable opportunity to vote may require establishing multiple polling places or the use of a mail ballot referendum when the members are widely dispersed. It would also be reasonable for the time period for voting to be extended to accommodate members who might otherwise be prevented from voting due to conflicting work schedules. Shortening the voting period by a late opening of the polls would not, in itself, be improper unless the intent or practical effect of such action is to deprive members of their right to vote.

§ 452.95 Absentee ballots.

Where the union knows in advance that a substantial number or a particular segment of the members will not be able to exercise their right to vote in person, as, for example, when access to a polling place is impracticable for many members because of shipping assignments, absentee ballots or other means of voting must be made available.⁴⁵ In the event absentee ballots are necessary the organization must give its members reasonable notice of the availability of such ballots.⁴⁶

Subpart I—Election Procedures; Rights of Members

§ 452.96 General.

The Act safeguards democratic processes by prescribing, in section 401, minimum standards for the regular periodic election of officers in labor organizations subject to its provisions. It does not, however, prescribe in detail

⁴⁵ *Goldberg v. Marine Cooks and Stewards Union*, 204 F. Supp. 844 (N.D. Cal. 1962).

⁴⁶ *Wirtz v. Local Union 262, Glass Bottle Blowers Association*, 290 F. Supp. 965 (N.D. Calif. 1968).

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election procedures which must be followed. Labor organizations are free to establish procedures for elections as long as they are fair to all members and are consistent with lawful provisions of the organization's constitution and bylaws and with section 401. The rights granted to members in section 401(e) refer to individuals, not labor organizations. For example, while locals may be members of an intermediate body, they are not entitled to the rights granted "members" in section 401(e).

§ 452.97 Secret ballot.

(a) A prime requisite of elections regulated by title IV is that they be held by secret ballot among the members or in appropriate cases by representatives who themselves have been elected by secret ballot among the members. A secret ballot under the Act is "the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice * * * cast in such a manner that the person expressing such choice cannot be identified with the choice expressed."⁴⁷ Secrecy may be assured by the use of voting machines, or, if paper ballots are used, by providing voting booths, partitions, or other physical arrangements permitting privacy for the voter while he is marking his ballot. The ballot must not contain any markings which upon examination would enable one to identify it with the voter. Balloting by mail presents special problems in assuring secrecy. Although no particular method of assuring such secrecy is prescribed, secrecy may be assured by the use of a double envelope system for return of the voted ballots with the necessary voter identification appearing only on the outer envelope.

(b) Should any voters be challenged as they are casting their ballots, there should be some means of setting aside the challenged ballots until a decision regarding their validity is reached without compromising the secrecy requirement. For example, each such ballot might be placed in an envelope with the voter's name on the outside. Of course, it would be a violation of the

⁴⁷ Act, sec. 3(k).