



**55th Convention
January 25-29, 2021**

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

TO: IAFF Affiliates
SUBJECT: Pre-Convention Information
DATE: September 21, 2020

With respect to our 55th Convention, attached are the guidelines on requirements of applicable law and our International Constitution and By-Laws prepared by our General Counsel.

The information relating to the nomination and election of our delegates to the IAFF Convention is necessary to comply with the requirements of our Constitution and applicable law. These detailed guidelines, in language as simple as the subject matter would permit, must be followed in the nomination and election of our Convention delegates and the process related to proxies. Moreover, this information is particularly important to new local unions and new affiliate officers who did not receive the information in prior Conventions. For further clarification, sample forms and notices appear at the end of the document.

Please read the material carefully and conform to the procedures set forth.

In addition, please note that as of the 2014 Convention, the IAFF has changed from paper to online submission and processing of credentials, proxies, and registrations.

If questions arise, or if further information is needed, please address your inquiries in writing to the General-Secretary-Treasurer's office, and we will undertake to provide the necessary assistance.

Handwritten signature of Harold A. Schaitberger in black ink.

Harold A. Schaitberger
General President

Handwritten signature of Edward A. Kelly in black ink.

Edward A. Kelly
General Secretary-Treasurer

LEGAL MEMORANDUM OF GUIDELINES

TO: IAFF Affiliates
FROM: IAFF General Counsel
SUBJECT: Requirements of IAFF Constitution and By-Laws and of Federal Law (LMRDA) governing nomination and election of delegates to Convention and related matters

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RULES OF FEDERAL LAW

The election rules provided in Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) can be quite technical and can be violated inadvertently by people who are acting in good faith and doing what they think is reasonable. **Accordingly, it is very important for all affiliates and, in particular, all local union officials to read and follow the below procedures, in order to avoid making errors that could damage the delegate-election process and consequently call into question the validity of the election of International officers.**

IAFF CONSTITUTIONAL REQUIREMENTS

Article IV, Sections 2, 3, 4, and 5; Article XIII, Section 15; and Article XIV, Section 6, of the IAFF Constitution and By-Laws pertain to delegate and proxy representation at the International Convention. Please review these sections carefully before proceeding with the rest of these guidelines. Locals should also review and be mindful of any requirements in their local constitution and by-laws regarding delegate selection. To the extent there is a conflict, however, the IAFF Constitution and By-Laws and this memorandum should be your guide.

1. The Decision of a Local Union on Whether and How to be Represented

1a. Membership Decides

In order for your local to comply with federal law, the local membership – not just the Executive Board or certain officers – must decide whether the local will send its own delegate(s) to the International Convention, and if so, how many delegates and alternates will be elected within the limits set forth in Article IV, Section 2 of the IAFF Constitution and By-Laws. The method of electing alternates (if there are to be any) must also be determined by the membership if the local’s constitution and by-laws does not already specify a method. For example, the members may want to hold nominations and elections of delegates separately from nominations and election of alternates, or they may simply decide to designate the closest runner(s)-up in the delegate contest as alternates.

Whether you plan to attend the Convention or send proxies may be determined at a single

regular or special meeting for which adequate notice has been given. (See Section 7 for Notice Requirements).

1b. Who Pays Expenses

If the local does decide to send its own delegate(s), the members should decide, prior to holding nominations, whether the local will pay full or partial expenses of the delegate(s), or whether the delegate(s) will have to attend the Convention entirely at his/her personal expense. Before nominations are held, the members should clearly understand whether and to what extent the local will pay to cover delegate expenses.

1c. Notice of Nominations

If nominations are to be held at a meeting after the one at which the above decisions are made, then, in addition to the other required information (the requirements are detailed later in this memorandum), the Notice of Nominations must also advise members how many delegates and alternates will be chosen and whether and to what extent expenses of the delegates will be covered by the local.

1d. When Proxy Representation is Permissible

Your membership may decide not to send any delegates, or they may find that no member in good standing of the local wishes to be a delegate (for example, because the members have decided that the local cannot afford to cover delegate expenses). Under these circumstances, if your local has an average of 101 members or more from April 1, 2019 through March 31, 2020, then the local cannot be represented by proxy at the International Convention. However, if your local has 100 members or less, the local has the constitutional option of being represented by proxy (Article IV, Section 2, IAFF Constitution and By-Laws), and the membership (again, not just the Executive Board or certain officers) must be given the opportunity to vote on that option. If the members vote in favor of being represented by proxy, then proxy nominations must be held at a later date. (See Section 6 of this document for details on proxy delegates).

It should be noted that Article IV, Section 2C of the IAFF Constitution and By-Laws, states: “No local union delegate may accept proxies to represent membership in excess of 100 and provided further, however, that in no event shall the total of proxy votes carried by all delegates within a local union exceed 200.”

1e. Notification to IAFF General Secretary-Treasurer

Submission of proxy credentials by a local union of 100 or less members may commence after September 21, 2020. **The online credentialing process for proxy representation for these locals must be completed no later than Tuesday, December 15, 2020.** (See Article IV, Section 5, IAFF Constitution and By-Laws). **Please note that the online credentialing process will not be deemed completed until both officers of your affiliate log on to the system and complete the process.**

1f. Quorum Requirements – When Applicable

Under federal law, local constitutional quorum requirements are not applicable to the decision on whether and how to be represented, or to the delegate nomination or election process (if any). A quorum requirement, if the local has one, would still apply to the decision on whether to pay all, part, or none of the expenses incurred by delegates.

2. Delegates by Virtue of Office

If certain officers are designated as delegates to the International Convention by virtue of office by your local constitution and by-laws, these officers may serve as delegates without new nominations and elections being held if the original nominations and election for these officers have met the required standards under federal law, including proper notification, secret ballot, and members being given a reasonable opportunity to nominate and vote.

2a. Federal Law Restrictions Applicable to All Convention Delegate Elections by Affiliates

Some affiliates may believe that because their local union elections are not subject to the LMRDA's requirements, neither are their certifications of delegates to the IAFF Convention. This is not the case. For example, Canadian local elections, and wholly public sector local union elections in the United States, are not subject to the requirements of the LMRDA. However, the elections for delegates of these affiliates to the IAFF Convention are fully subject to the LMRDA because the *International* is subject to these requirements. Therefore, the elections of local union officers for Canadian and wholly public sector U.S. locals must comply with the U.S. federal standards for elections if they are to serve as delegates by virtue of office to the IAFF Convention. This specifically includes the requirement that these officers have not been in office for more than three years without standing for reelection.

2b. Vacancy appointments

Be careful to note, however, that if any individual is serving in office as the result of an appointment to fill a vacancy, he/she may not automatically serve as a delegate. In such case, new nominations and an election would have to be held for that delegate position.

3. Nominations of Regular Delegates

If the local decides to send its own delegate(s) to the Convention, nominations for delegate(s) and alternate(s) may be held at the same meeting where the local decides whether to be represented at Convention (provided that all necessary nomination information has been included in the meeting notice), or at a subsequent meeting for which adequate notice of nomination has been given.

The following points must be remembered when conducting nominations:

- (a) All members in good standing of your local are eligible to nominate and be nominated for delegate or alternate.

- (b) If your local union constitution and by-laws requires that nominees be present at the meeting to accept a nomination, then members who for any reason are not able to attend the meeting must be allowed to submit written acceptances in advance. In these circumstances, the notice of nominations must advise members of the time by which advance written acceptance must be received and the person to whom they are to be submitted.
- (c) If nominations of delegates and alternates are held separately (that is, if alternates are not going to be decided later simply by designating the closest runners-up in the delegate election), then the same member may not accept nomination for both delegate and alternate, as this might result in the same individual being elected as both a delegate and an alternate.

4. Election of Regular Delegates

There is no requirement to have an election if there is only one candidate nominated for a given delegate position, provided that members in good standing have been properly notified of the process for submitting nominations and allowed the opportunity to nominate any qualified member. Depending on the working hours and location of the members, the election of delegates and alternates may take place at the same meeting at which nominations are held provided that necessary election information has been included in the meeting notice (please refer to Section 7). However, the election may be held at a subsequent meeting, or at one or more polling places open over a specified period(s) of time, or by mail ballot. Your local constitution and by-laws may already prescribe where and how the election is to be held. However, depending on the following requirements, you may have to develop procedures that go beyond what is provided in the local constitution and by-laws:

- (a) Every member in good standing must be given a reasonable opportunity to vote. For example, if some members because of their working hours or location or other good cause specified in your local constitution and by-laws are unable to attend the meeting or polling site where you plan to hold balloting, an additional meeting or special polling hours and locations must be scheduled to accommodate these members, or the local must provide an absentee procedure that would allow these members to vote by mail. (See Attachment C). All polling sites, hours at each site, date(s), and absentee ballot procedures must be clearly explained in the Notice of Election, Section 7b.
- (b) Locals must provide facilities to assure that members vote their ballot in secret. Secret ballot requirements are addressed in Section 8d.
- (c) If voting for delegates and alternates is to take place at the same meeting at which nominations are held, then the names of the nominees may be posted, and members can use blank pieces of paper on which to write the names of candidates of their choice (up to the number that the local has decided to elect).

If voting is to take place on a date subsequent to nominations, then printed ballots are preferable, but not legally required, as long as the names of nominees are clearly posted and

members are told the number of candidates for which they may vote. The printed ballots (if used) should tell members the number of candidates for which they may vote.

Your local may be conducting its election by mail, in which case printed ballots are obviously a necessity. Arrangements should be made in advance to have the ballots prepared as soon as possible after nominations. (See Section 8 for details on voting procedures).

4a. Credentials

Delegate credentials **may only be obtained using the IAFF's online credentialing process, beginning September 21, 2020.** Locals whose delegates wish to serve as proxy carriers are strongly urged to submit their credentials online as soon as possible once the submission period opens September 21, 2020. Locals that do not submit the credentials of their delegates early enough may not be able to have their delegates considered as nominees to carry proxies from other local unions. This is because the online credential system will not permit a local to register a proxy with an individual who is not himself or herself a properly credentialed and registered (paid) delegate.

5. Observers

Any candidate for delegate or alternate may have an observer present at any local union's delegate election. The right to observe extends to the entire process of balloting and tallying. In large locals, with multiple or extensive polling place operations, candidates are entitled to as many observers as are necessary to observe all phases of balloting and tallying. In local unions that will be conducting their delegate elections by mail, candidates' observers are entitled to be present at the preparation and mailing of ballots and at the pickup and tally of ballots. If any candidate or candidate's representative contacts your local union, local officers must cooperate in giving the date(s), time(s), and location(s) of all phases of any scheduled election of delegates.

6. Nomination and Election of Proxy Delegates (IAFF Constitution and By-Laws Article IV, Section 2)

6a. Proxy Carriers Must be Delegates – Not Local Unions

Locals of 100 members or less that decide to be represented by proxy must not proceed immediately with nominations and elections of their proxy designee. To hold proper nominations of proxy carriers, a local must first have available to it a list of regular delegates elected in other locals within the same district. Under federal law, an elected delegate must be nominated and elected to carry a proxy, not a local union. In the event a local sending a proxy wishes to elect an alternate (or back-up) delegate to carry its proxy (if the first-elected delegate is unable to do so), the alternate delegate must come from the same local union as the first-elected delegate and the same procedures for nomination, election, etc., should be followed.

6b. Notification Required

Notification requirements will be similar to those for nomination and election of regular

delegates. Candidates will have the same right to have observers present at proxy-delegate elections as they will have for elections of regular delegates.

7. Notice Requirements

7a. Notice of the Decision on Whether and How to be Represented and Notice of Nominations

It is recommended that locals conduct one meeting to decide whether and how to be represented and to nominate regular delegates, if necessary.

Federal law requires that members be given a reasonable opportunity to nominate candidates of their choice for delegates. This includes a reasonable opportunity to participate in the decision-making process leading up to nominations or leading to a decision not to be represented, thereby making nominations unnecessary. Part of the “reasonable opportunity” involves receiving advance notification of the relevant meeting or meetings.

Notification must be given in writing, in a manner reasonably calculated to reach all members well enough in advance so that members have a reasonable opportunity to plan for the meeting(s). Notices may be mailed and/or posted or otherwise distributed, as long as each member receives notice. It is suggested, but not legally required, that local unions follow the same procedure for the nominations notice that the law requires for the elections notice – that is, to mail notices at least 15 days in advance of the meeting to each member at his or her last known home address.

The text of the notice must clearly state the date, time, and place of the meeting and that during this meeting the membership will decide whether to elect a delegate(s) and an alternate(s) to the 55th Convention, or whether to grant a proxy if the local has 100 members or less. The notice should also state that if the members decide to send one or more delegates to the Convention, they will then decide whether the local will cover all, part, or none of the expenses of the delegate(s). With respect to nominations, the notice must state the form of nominations (for example, nominations will be taken from the floor, no seconds will be necessary), in addition to the date, time, and place of nominations. Moreover, if your local constitution and by-laws requires that members be present at the meeting to accept nominations, the notice must state that members who for any reason will be unable to attend may submit written acceptances in advance. The time by which such acceptances must be received and the person to whom they are to be submitted must also be specified.

7b. Notice of Election

Section 401(e) of the LMRDA requires that, not less than 15 days prior to the election, notices thereof shall be mailed, **by U.S. mail (or Canadian postal service)**, to each member at his/her last known home address. If your local will be conducting its delegate election by mail, the notice of election may be combined with balloting instructions and included in the package of balloting materials, and the whole package mailed at least 15 days in advance of the date by which voted ballots are to be received and counted.

If, as in most cases, your local uses manual balloting, the notice must give the date(s), time(s),

and location(s) of the meeting(s) and/or polling place(s) where the voting will take place and must also state that the election will be for delegates and alternates to the 55th International Convention.

Notice of Election may be combined with the notice in Section 7a above – that is the easiest and most economic option available. Examples of notices that might be applicable to your local’s situation are illustrated in Attachments A – C.

8. Procedures for Manual Balloting

8a. Election Committee or Tellers

If your local has constitutional procedures for electing or appointing an election committee or tellers to take charge of the balloting, follow those procedures. If not, then the members at a meeting should elect an election committee or should authorize the local president to appoint one. This can be accomplished at the same meeting where decisions are made about whether and how to be represented. The duties of the election committee should be clearly established. Will it just be concerned with balloting or will it also be in charge of issuing notices, preparing eligibility lists, and so forth?

8b. Eligibility List

At the meeting or polling site where balloting will be conducted, the election committee should have a list of names of the local’s members who are eligible to vote – that is, all members in good standing.

In good standing with respect to payment of dues is defined in the IAFF Constitution and By-Laws, Article XIII, Section 4, as follows: “If he/she fails to make payment by the fifteenth day following the month such dues are payable, he/she shall be notified by the Secretary-Treasurer or Secretary of the local union that he/she is delinquent and will be automatically suspended and lose his/her good standing if payment is not made within sixty (60) days following such notification.”

8c. Issuing the Ballot

When a voter approaches the table to be issued a ballot, he/she should be asked to present identification (driver’s license, union card, or any other reasonable ID), unless the voter’s identity is personally known to the election committee member(s) issuing the ballot. Prior to handing the voter a ballot, the voter’s name should be checked off on the eligibility list. If the name does not appear on the list, local financial records should be checked to determine whether an error has been made. If the individual is found to be eligible, his/her name should be added to the eligibility list and checked off, and he/she should be given a ballot.

If an individual wishes to vote, but available records indicate that he/she is ineligible or there are no records to support his/her eligibility, he/she must be allowed to vote a “challenged” ballot if he/she so desires. To vote by challenged ballot, the individual is given a regular ballot, a small, unmarked envelope, and a larger envelope on which the following should be written: the voter’s name, job title and station, the reason for the challenge, and the name of the election committee

member issuing the ballot. The voter should then be instructed to go to the voting booth and mark his/her ballot but not to sign it, then to seal it in the small envelope but not to sign or mark the envelope in any way, and then to seal the small envelope inside the larger envelope with the written information and drop the whole package in the ballot box. A record must be kept of the names of all individuals who vote by challenged ballot. The names may simply be added to the list of eligible voters, with a “C” placed to the left of the name to indicate “challenged.”

8d. Secret Ballot Requirements

The voting ***must be by secret ballot***. Even if some members don’t care whether others see how they vote, the courts have ruled that secret balloting facilities must be provided, and the local must require members to use them.

Proper facilities consist of voting booths (cardboard boxes set up on tables may suffice if they are arranged in a way that assures secrecy), or curtained areas, or separate rooms where members can mark their ballots one at a time, etc. A ballot box must also be provided, into which members must place their folded ballots (larger locals may have voting machines, instead of paper ballots and ballot boxes).

Members should be advised not to sign their ballots and not to place any markings on them that would identify the member with his/her vote.

Please note that according to the U.S. Department of Labor, ***there are currently no online voting systems that meet the secret ballot requirement***, due to the possibility of identification. Therefore, delegates, alternates, or officers that are delegates by virtue of office **cannot** be elected by online web-based voting.

8e. Mail Balloting

If your local union will be conducting its delegate election by mail, the local should obtain a separate post office box for the receipt of voted ballots. The Notice of Election and instructions accompanying the ballots must clearly state the date and time when voted ballots will be retrieved from the box, and that ballots received after that time will not be counted. Since 15-day mail notice of the election is required, and will likely be included as part of the mail-ballot package, the date for receipt of voted ballots must be at least 15 days after the date on which the ballot package is mailed to members.

In mail-ballot elections, it is recommended that locals use a double envelope system for the return of voted ballots. Instructions accompanying the ballots should clearly require members to mark their ballot and seal it in the small envelope, but not to sign or identify themselves on either the ballot or the small envelope. The instructions should then require that the small envelope be sealed in the larger envelope on which the local’s return post office box address has been printed, and that the member must then place his/her name and address in the designated place on the outer envelope. This system allows for verifying voter eligibility at the time of the tally, while still maintaining ballot secrecy.

8f. Tally

Each candidate is permitted to have an observer at the tally of ballots. A candidate may have as many observers at the tally of ballots as may be necessary to effectively observe the actual counting of ballots. Only the tellers should handle ballots during the tally.

8g. Void Ballots

If a ballot bears a signature, initials, or other markings that identify the voter, then the ballot must be voided. Extraneous markings that do not identify the voter are not grounds for voiding the ballot.

Challenged ballots must be resolved and, if found eligible, counted if their number may affect the outcome of the election. If this is the case, notations should be made on the outside challenged ballot envelopes reporting the disposition of the challenge. These envelopes should be retained by the local for one year along with the other election records.

When counting challenged ballots that have been resolved as eligible, care must be taken to insure the secret vote of the member. All inner envelopes should be removed from the challenged ballot envelopes. When all inner envelopes are so removed, then the tellers can proceed with opening them to remove the ballots for counting.

If any ballot is voided (for instance because the member signed his name on the ballot or the member voted for too many candidates), the ballot should be clearly marked “void.”

8h. Counting the Ballots

Those candidates receiving the highest number of votes shall be declared elected. No write-in votes shall be counted unless your affiliate has a provision in its constitution and by-laws explicitly allowing for the same. If there are any questions about what the voter meant to do on his/her ballot, the election committee should attempt to agree upon the “clear intent” of the voter and should allow observers to voice their opinions as well. A ballot should be voided only to the extent that a voter’s intention is not clear. For example, if a ballot lists five candidates running for three delegate positions, and the voter has placed a mark clearly in the boxes next to two of the names, but the third mark is between the names of two other candidates, then just the third mark should be voided. However, if he/she is entitled to vote for not more than three candidates and instead votes for four, then all votes for the delegates must be voided.

Remember—if a nominee is unopposed, an election is unnecessary.

9. Financing of Campaigners for International Office

Section 401(c) of the LMRDA provides that any candidate for delegate may have the local union distribute, by mail or otherwise, campaign literature for him/her at the candidate's own expense. Any candidate for International Office may have the International distribute campaign literature for him/her at the candidate's own expense.

Section 401(g) of the LMRDA prohibits the use of labor organization funds or employer funds to promote the candidacy of any candidate. This means that a practice where local unions decide to donate local union funds to the campaigns of candidates for International Office is strictly prohibited.

The term 'funds' applies not only to monies, but to union facilities, photocopy machines, the union logo, letterhead, newspaper, or other publications, etc.

Some local unions have a practice of taking a vote at their regular meeting to endorse a candidate for a particular International office. This kind of action is permissible, and may be recorded in the local's minutes. If the local has a newsletter where it regularly reports what has transpired at meetings, then the endorsement may be reported as a straight news item. The local union newspaper may not, however be used to campaign for the candidate who has been endorsed, for example, by urging members to vote for delegates who will support the candidate, or to extol the virtues of the candidate. In addition, it would be improper for local unions to use union funds or union letterhead to write to other local unions saying whom they had endorsed. This would constitute campaigning, rather than mere reporting, and would be a violation of Section 401(g) of the LMRDA.

Remember, the general rule is that union or employer funds (broadly defined) may not be used to promote the candidacy of any candidate. Within that framework, local should act with restraint and common sense.

SAMPLE NOTICE

ATTACHMENT A

Sample meeting notice for locals with 101 or more members

IMPORTANT MEETING NOTICE

LOCAL # _____

TIME(S): _____

DATE(S): _____

LOCATION(S): _____

PRINCIPAL ITEM OF BUSINESS: Representation at the 55th IAFF Convention

Members attending this meeting are to decide if the local will send a delegate or delegates to the 55th IAFF Convention. If sending delegates, members will decide how many delegates and alternates are to be elected within the limits set forth in Article IV, Section 2 of the International Constitution and By-Laws and will also determine how alternates are to be decided. In addition, the members will decide whether the local will pay all or part of the expenses to be incurred by the delegate(s), or whether the delegate(s) will attend the Convention entirely at personal expense.

If needed, nominations will then proceed for delegates and alternates, if any.

Only members in good standing of this local union will be eligible to nominate or be nominated for delegate or alternate.

SAMPLE NOTICE

ATTACHMENT B

Sample meeting notice for locals with 100 or less members.

IMPORTANT MEETING NOTICE

LOCAL # _____

TIME(S): _____

DATE(S): _____

LOCATION(S): _____

PRINCIPAL ITEM OF BUSINESS: Representation at the 55th IAFF Convention

Members attending this meeting are to decide if the local will elect a delegate to the 55th IAFF Convention. If sending a delegate, the members will also decide whether and how to elect an alternate delegate, and whether the local will pay any or all of the expenses to be incurred by the delegate.

If a decision is made not to send a delegate, the members must then vote on the option of granting a proxy.

If an election for a regular delegate is needed, nominations will be conducted at this meeting for delegate and alternate position(s) (if any).

Only members in good standing of this local union will be eligible to nominate or be nominated for delegate or alternate position(s).

SAMPLE NOTICE

ATTACHMENT C

Sample notice of election of delegates and alternates must be mailed at least 15 days prior to the election.

NOTICE OF THE ELECTION OF DELEGATES TO THE 55th IAFF CONVENTION

All members in good standing of Local _____ are eligible to vote for _____
delegates and (number of)

_____ alternates to the 55th IAFF Convention. The voting will be conducted as follows:
(number of)

TIME(S): _____

DATE(S): _____

LOCATION(S): _____

(Insert what identification a member will need in order to vote and any absentee ballot provisions).

NOTE: The information contained in this notice may be combined with the meeting notice about representation and nominations. However, whenever an election notice is being provided, it must be mailed to all members' last known home address at least 15 days prior to the election.