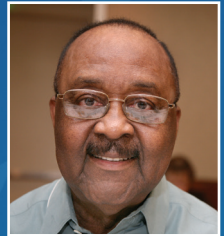


AFSCME

Retiree Election Manual



To all AFSCME Retiree Chapters and Subchapters:

Democracy depends upon two things: an understanding of procedures and participation. Nowhere are these more important than in the election process.

This manual represents an attempt to spell out, in uncomplicated terms, the requirements that AFSCME retiree chapters and subchapters must meet in conducting elections. We took the requirements spelled out in the Retiree Election Code and included them here, with wording approved by the International Executive Board.

The Retiree Elections Code—and not this manual—is the last word on whether an election is valid. The Judicial Panel investigates alleged irregularities in elections and applies the appropriate provisions of the Constitution. This manual does not affect that procedure. Rather, this manual attempts to make the election process clear to every AFSCME retiree member.

We urge that all retiree chapter and subchapter officers and election committee members read the manual in advance of elections. An understanding of and an adherence to proper election procedures will strengthen our retiree organizations as democratic institutions.



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When Are Elections Held?

The time for holding chapter or subchapter elections must be spelled out in the chapter or subchapter constitution.

While the constitution need not name a particular day, it should indicate that “all regular elections shall be held in the month of September,” or whatever month the chapter/subchapter regularly uses. If the officers are elected for one-year terms, that is all the language that is needed.

If the chapter/subchapter has, by proper vote, established two-year terms for its officers, the constitution should indicate that elections are held in a specific month, for example, “in each odd-numbered year.” If three-year terms are established, the constitution should call for elections in a specific month, for example “every third year, beginning in 1986,” or some similar language to indicate a starting point for measuring the terms of office.

Elections must be held in the regularly scheduled month, even though the previous election was not completed in the month specified in the constitution. Such a delay might come about because of a run-off election or because of an “act of God,” such as a snow storm or a flood, which made it impossible to conduct the previous election on the scheduled date.

Notice of Nominations

The first step in the election process is the holding of nominations. The first step in the holding of nominations is to alert the membership that nominations are to take place. The Retiree Election Code is quite specific as to how this is to be done, and the procedure may vary depending on whether the officers are to be elected by direct vote of the membership or by vote of chapter delegates.

For chapters and subchapters conducting elections by direct vote of the membership the Code requires “Not less than 15 days prior to the holding of nominations ... a notice of the nominations and elections shall be mailed to each member at the member’s last known home address.” (Retiree Elections Code, Section 2, Sub-section D). The mailing must be through the United States Postal Service and be sent by first class mail. This requirement is not satisfied by sending emails to members.

For chapters with subchapters conducting elections by delegates the code requires that notice of nominations and elections ... shall be sent to each affiliated subchapter president not less than 50 days prior to the election or notice may be given as required by the chapter’s approved constitution.” (Retiree Elections Code Section 2, Sub-section D)

The notice should indicate what offices are to be filled and should state the date, time and place of the nominations meeting. The notice may also state the date, time and place of the election if known. (Nominations and elections can, from a legal standpoint, take place at the same meeting.)

The form of the notice is less important than is the timing. The information may be included as a part of a regular meeting notice. It may be given by printing the notice in a newsletter or other publication that is mailed to the membership, provided it is prominently displayed and not buried in the middle of an article on some other subject. Notice may also, be given in a special letter addressed to each member. The important thing is that the notice be mailed the required number of days before the meeting at which nominations are to be made.

Because no mailing list is ever 100 percent accurate, it is usually wise to call the members or subchapter presidents concerning the nominations and elections in addition to the mailed notice.

Making Nominations

Nominations may occur at a regular or special meeting of the membership. Other business of the chapter or subchapter may be conducted at the meeting; however, a quorum is not required at the time nominations are received. When the time for nominations arrives, the chairperson of the meeting announces, “Nominations are now open for the office of president.” Any member may then rise and, when recognized by the chairperson, say “I nominate Jane Doe for president.” That is all that is required; no seconding speech is necessary.

The chairperson should then announce, “Jane Doe was nominated. Are there any other nominations for president?” This procedure should be continued until three consecutive calls for “other nominations” go unanswered. The chairperson should then declare the nominations for that office closed and proceed to the next office. No motion is needed, under such a circumstance, to close the nominations, and a motion to close nominations is always out of order if another member seeks the floor for the purpose of making a nomination.

Some chapters and subchapters use a Nominating Committee. A Nominating Committee, like any other committee, is ordinarily appointed by the chapter or subchapter president with the approval of the Executive Board. The use of a Nominating Committee is permitted under the Retiree Elections Code, but chapter or subchapter constitutions may prohibit them.

Use of a Nominating Committee, however, does not change the requirement that nominations be permitted from the floor at the nomination meeting. If such a committee is used, it would first make its report to the meeting. The chairperson of the meeting would then announce, “The Nominating Committee nominated Jane Doe for president. Are there any other nominations for president?” and would then continue just as if no Nominating Committee was used.

When nominations are closed, all unopposed candidates (i.e., where the number of members nominated is less than or equal to the number to be elected) who have accepted nominations should be declared elected. This should be done by the chairperson of the meeting and does not require a motion or a vote.

Acceptance of Nomination

The Retiree Elections Code, Section 2, Sub-section E, provides:

“Those nominated shall be afforded the opportunity to decline, and the name of any nominee who declines shall not appear on the ballot.”

Note that it is “the opportunity to decline,” not “the opportunity to accept” that is guaranteed. If a nominee is eligible for the office and if the nominee does not take the positive action of declining, the nominee’s name must go on the ballot.

- If the nominee declines, said nominee is not a candidate.
- If the nominee accepts, said nominee is a candidate.
- If the nominee does neither, said nominee is assumed to be a candidate.

Ordinarily, the nominee is offered the opportunity to decline at the same meeting at which said nominee is nominated. If the nominee is present at the meeting, the chairperson simply asks: “Do you accept the nomination?” and the answer is entered in the minutes of the meeting. If the person is not present, the nominee must be contacted later and asked to indicate acceptance or declination in writing to the Election Committee.

No member may be a candidate for more than one office at the same time. If a member is nominated for two or more offices in

the same election, the nominee must decline all except one such nomination. If the nominee fails to indicate which office said nominee wishes to seek, the Election Committee should assume the nominee is running for the first office for which said nominee was nominated and assume said nominee has declined all other nominations.

Some chapters and subchapters may attempt to permit running for more than one office in the same election by holding the nominations and the election for a single office at the time, then moving to the next office, and continuing the procedure until all offices are filled. While such a procedure is legal—if spelled out in the chapter or subchapter’s constitution—it is awkward and cumbersome and is not recommended.

Eligibility For Office

There is only one absolute requirement for eligibility for office spelled out in the Retiree Elections Code that applies to chapters and subchapters.

The candidate “must be a member in good standing of the chapter or subchapter in which the nominee seeks office.” (Section 2, Subsection A). This means that the candidate’s membership is not currently in a suspended status and was not in a suspended status during the eligibility period to run for office.

To be eligible, however, a candidate must also “meet such other conditions as are stipulated in the approved constitution” of the chapter or subchapter.” (Retiree Elections Code, Section 2, Subsection A)

In most cases, the only other condition has to do with length of membership in the organization.

The rule in most chapters and subchapters is, to be eligible for office, a member must be in good standing for one year immediately preceding the election, except in the initial election held in the chapter or subchapter. Chapters and subchapters can extend this length of membership, in cases where officers are elected for terms longer than one year, up to a maximum period equal to the length of the term of office. Even where such language exists, however, the International president ruled that (1) if there is only one nominee and (2) if that nominee would be ineligible only because of the length-of-membership requirement, the nominee may be declared elected and may serve the full term. If there is more than one nominee and all of them are ineligible only because of the length-of-membership requirement, they should all be considered eligible and their names placed on the ballot.

Retiree chapters or subchapters may not establish eligibility requirements that include:

1. Attendance at some minimum number of membership meetings during the preceding year.
2. Physical presence or written notice of acceptance of a nomination at the nomination meeting.
3. A prohibition against re-election or a limit on the number of consecutive terms to which a member may be elected.

The Election Committee

The Election Committee, like any other chapter or subchapter committee, is ordinarily appointed by the chapter or subchapter president, with the approval of the Executive Board. Some chapters and subchapters may attempt to provide for election of the Election Committee. Such attempts generally break down in discussions over whom would conduct the election of the Election Committee and would conduct the election of the Election Committee to conduct the election of the Election Committee and who would conduct the

There are some differences from other committees, however. In most chapters and subchapters, the president is an ex-officio member of all committees. But, the president may not serve as a member of an Election Committee in any election where the president is a candidate (nor may any other candidate serve on the Election Committee). Because of this restriction, members should be asked if they intend to be a candidate in the election before they are appointed to the Committee. If an appointed Committee member later accepts nomination for office, they must be immediately removed from the Committee.

This Election Committee has, in the words of the Retiree Elections Code, “general responsibility for the conduct of the election in accordance with the constitutions of the chapter and/ or subchapter” (Section 2, Sub-section B). This may involve some minor rulemaking regarding such matters as hours of voting, unless those matters are either covered in the chapter or subchapter constitution or already were decided by membership vote. Aside from such matters, the Election Committee must be prepared to handle eight basic duties.

The committee must:

1. Make sure that each nominee was offered the opportunity to decline the nomination.
2. Hear and decide, subject to membership approval, any challenge that may be made concerning the eligibility of any nominee.
3. Make sure that proper notice of the election is given. (If the nomination notice included the date, time and place for the election, no further notice is required.)
4. Prepare or supervise the preparation of the ballots.
5. Supervise the issuance and return of the ballots. This usually means either distributing ballots at the meeting and collecting them after they are marked, or it may mean mailing ballots to the membership and receiving them by return mail.
6. Count the ballots and certify the results of the election.
7. Hear and decide any protests that may be filed concerning the conduct of the election.

8. Make a report to the membership concerning the results of the election and, subject to membership acceptance, the decisions made on any protests.

Challenges

A “challenge” is a formal objection to someone’s right to run for office. It must be raised by a member before the election is actually held.

A challenge must be based on some provision of the Constitution of the International Union or of the chapter or subchapter.

Examples of valid bases for challenges are:

1. The nominee has not been a member of the chapter or subchapter for the length of time required by the constitution.
2. The nominee was declared ineligible for a time period that includes the date of the election as a result of charges under provisions of the International Union Constitution, or the constitutions of the chapter or subchapter.

Any challenge that is raised must be referred immediately to the Election Committee. The committee should meet as quickly as possible, offering both the challenged nominee and the member making the challenge the opportunity to be heard. The committee may also wish to examine official records affecting the challenge, and it has an absolute right to do so.

The committee must then decide the matter and report its decision to the membership before the election occurs. The committee’s decision is subject to acceptance or rejection by the membership.

Action on a challenge may later be appealed to the Judicial Panel. The filing of such an appeal, however, should not be used as a basis for delaying the election.

Election Campaigning

The general provisions on the rights and the restrictions on campaigning for office in a chapter or subchapter can be found in Section 1 of the Retiree Elections Code. These provisions are:

1. No funds or resources of the Federation or any subordinate body, and no funds or resources of any employer, can be used in campaigning for any elective office within an AFSCME retiree organization.
2. No publication of any kind that is sponsored by or supported by the Federation or any subordinate body can make any endorsement or otherwise support any candidate for elective office within an AFSCME retiree organization.
3. Any member who was nominated for office or who announces his/her intention to run for office has the right to one mailing to the membership and/or subchapter—made through the chapter (if appropriate) or subchapter office—before the election. This mailing is not to be made at the chapter’s or subchapter’s expense.

It is probably this third provision that is the most misunderstood. Note that the right is “the right to mail,” not “the right to print.” The candidate must prepare what he or she wants mailed, furnish the envelopes, do the stuffing and sealing, and affix the stamps or furnish the money to pay for the mailing meter charge. The candidate must, in effect, furnish everything but the names and addresses. All the chapter or subchapter is required to do is address and mail the material. Even here, if there is expense connected with the addressing, it must be born by the candidate or the candidate’s supporters.

Note also that the candidate is not entitled to a mailing list for his or her own use.

It is understood that no campaign signs or leaflets may be displayed at the polling place itself. Chapters and subchapters may, of course,

make additional rules on such matters as how far from the polling place campaigning can occur. The major tests of any additional rules the Chapter or Subchapter may adopt are:

1. Are the rules reasonable?
2. Are the rules uniformly applied to all candidates and at all polling places, if more than one location is used?

Notice of Election

If the original notice that announces the nominations included announcement of the date, time and place of the election, no additional election notice is required. If the nomination notice did not announce the election, an additional notice must be given. Like the notice of nominations, the time period in which the notice of elections must be mailed may vary depending on whether the officers are to be elected by direct vote of the membership or by vote of chapter delegates.

For chapters and subchapters conducting elections by direct vote of the membership the code requires “Not less than 15 days prior to the holding of the ... elections ... a notice of the ... elections shall be mailed to each member at the member’s last known home address.” (Retiree Elections Code, Section 2, Sub-section D)

For chapters with subchapters conducting elections by delegates the code requires that notice of elections “shall be sent to each affiliated subchapter president not less than 50 days prior to the election or notice may be given as required by the chapter’s approved constitution.” (Retiree Elections Code Section 2, Sub-section D)

For chapters without subchapters and for subchapters, this notice must be “mailed to each member at the member’s last known home address at least 15 days before the election date.” Sending the notice by e-mail does not satisfy this requirement. For chapters with subchapter, this notice must be mailed to each subchapter president “not less than 50 days prior to the election or notice may

be given as required by the Chapter's approved constitution." In all cases, the notice of elections should state the date, time and place of the voting and should, in addition, indicate which offices are to be voted on and, if possible, list the candidates. If there are more than two candidates for a single office, it is wise to include in this notice the date, time and place for any run-off election that might be necessary.

If the voting is to be done by mail, a somewhat different procedure is used, and this is discussed under "VOTING BY MAIL" later in this manual.

Preparation of Ballots

The ballot should be headed "Official Ballot," followed by the name and number of the chapter or subchapter and the date of the election.

The ballot should also include instructions: "Mark an 'X' in the squares next to the names of those for whom you wish to vote," or similar simply worded directions. In the case where the names of candidates are not written on the ballot, the ballot should state: "Write the name of the nominated candidate you want to vote for," or similar, simply worded directions. It is also advisable to add "Do not sign your name" and "Do not make any other marks on this ballot." (If the voting is to be done by mail, the instructions must be more detailed. See the section on "Voting by Mail.")

The various offices to be voted on should be listed one at a time and after the designation of each office, the words "Vote for One," "Vote for Three," "Vote for No More than Three" or whatever is appropriate should appear. This should be followed by a listing of the candidates, with a box or circle next to each name. Writing in the name of someone who has not been nominated is not permitted, and may make the ballot void.

Do not list on the ballot any office for which there is only one candidate. That candidate was already been declared elected, and placing that office on the ballot can only lead to confusion.

Do not print anything on the ballot to indicate which candidates are the incumbents.

The Election Committee is responsible for confirming that all names are correctly spelled on the ballot. The surest way to do this is by contacting the candidate personally and asking the candidate to indicate, preferably in writing, how his or her name is to be placed on the ballot.

William Stuyvesant Jones may want to be listed on the ballot as William Stuyvesant Jones, William S. Jones, W. Stuyvesant Jones, W. S. Jones, or Bill Jones, and he should be given the opportunity to make that decision and to give the accurate spelling of his name.

The next question is, “In what order will the names appear on the ballot?”

Most chapters and subchapters print the names on the ballot in the order in which the candidates were nominated, and this practice is perfectly proper.

Some chapters and subchapters list the candidates in alphabetical order, and this practice is also perfectly proper.

Some chapters and subchapters determine the order of names by drawing lots, and this practice is also perfectly proper.

What is not proper is to change from the method used previously to a new method after the nominations occurred. If a change from one method to another is desirable, the new procedure should be approved by membership vote (or announced by the Election Committee, if one was established) before the nominations begin.

The final step in preparing the ballots is the actual printing. This may be done by a commercial printer, on an office copy machine, or in any other manner that will produce easily read ballots. The number to be printed should substantially exceed the number actually needed to take into account the possibility of spoilage during the election itself.

The Election Committee should:

1. Determine how many are to be printed.
2. Make sure the exact number are in fact printed.
3. Take charge of the ballots immediately upon completion of the printing, safeguarding them until the elections occur.

Election Procedure

The two basic requirements for the actual conduct of the election are contained in the Retiree Elections Code, Section 2, Sub-section F:

1. "... election shall be by secret ballot."
2. "All chapter or subchapter members or chapter delegates, shall be afforded a reasonable opportunity to vote."

The first of these rarely causes problems. Chapters and subchapters can provide any means of privacy, from elaborate voting booths to seating space at isolated tables. Others use even less complicated methods. Almost any method that affords the voter the opportunity to mark the ballot without any other person observing is acceptable. After the voter marks it, the voter deposits it in a ballot box or other container where it is mixed with the ballots cast by others and the right to secrecy is preserved.

It is the second requirement that occasionally creates disagreement.

For comparatively small chapters without subchapters, it is a common and completely acceptable practice to conduct the election during a membership meeting. Ballots are simply given to all members present and then collected in a common container and counted. At these meetings, it is not necessary that a quorum of the membership be present during the election. For larger chapters without subchapters, and larger subchapters, the holding of elections at a meeting may not work.

While it is practical to simply pass out ballots in a meeting of 20 people, all of whom know each other, it is quite something else to

try to do the same thing in a meeting attended by several hundred members. In the case of these larger groups, it is usually best to set up specified hours of voting and function on a basis similar to the holding of an election for public office. It is essential, of course, that a record be kept of which members voted—both to avoid having someone vote twice and to avoid giving ballots to non-members. The best way to do this is work from an up-to-date membership listing and require voters to (1) identify themselves and (2) sign for their ballots.

If more than one voting location is to be used, great care must be taken to see that each member votes in only one location. This may mean breaking the membership list down by residence. It may also mean frequent telephone contacts between one location and another or to a central location controlled by the chairperson of the Election Committee for the purpose of updating a master list.

These problems for larger chapters without subchapters and subchapters can be solved. **Three kinds of “solutions” that are occasionally attempted, however, are prohibited:**

1. There can be no proxy voting. No member can authorize another to cast a vote for him or her.
2. Mail ballots cannot be used for those who are unavailable during voting hours. Balloting by mail must be done by all members or by none.
3. There can be no “absentee” voting. In the rare instances where this was tried, it was found the practice lends itself to abuse and therefore cannot be used.

Occasionally a problem will arise concerning a person who arrives to vote and there is doubt as to the member’s eligibility. Challenges can be raised concerning the eligibility of a prospective voter either by a member of the Election Committee who is present or by an observer representing one of the candidates. It is up to the Election Committee to resolve the matter.

The prospective voter may, for instance, not be listed on the membership roster and yet insists that he or she is a member. If the person can produce evidence that he or she pays dues—a stub from a current pension check showing check off of dues, or a receipt for current dues issued by the chapter or subchapter, for example—the matter can probably be settled on the spot and a ballot issued. If it is a matter requiring further investigation or additional evidence that cannot be produced immediately, the person should be permitted to mark a ballot and then seal it in an envelope with his or her name on the outside. This envelope should then be placed in the ballot box or in a separate container until the challenge is resolved.

At the time for the closing of the polls, anyone standing in line to vote should be permitted to do so. Anyone arriving after that time will lose the opportunity.

Observers

The Retiree Elections Code, Section 2, Sub-section H, provides:

“Any candidate whose name appears on the ballot shall have the right to have present an official observer of the candidate’s own choosing, who must be a member of a chapter or subchapter, in all places where ballots bearing the candidate’s name are to be cast or counted.”

Each candidate may designate their own observer. A candidate may not serve as his or her own observer (nor as an observer for any other candidate) during the period when voting is actually occurs.

The observers are there to observe; they may not assist in the actual conduct of the election. They may not, while so serving, engage in any kind of campaigning. They may not wear buttons or badges in support of a candidate, pass out leaflets or attempt to discuss the election with those who come to vote. (These restrictions on campaigning also apply, of course, to the members of the Election Committee who are conducting the election.)

Observers have, however, some absolute rights. These include:

1. The right to inspect the ballot box at any time up to the moment the election is to start.
2. The right to be present in the room where the election is occurring throughout the hours set for the voting.
3. The right to challenge any voter whom they think is not eligible to cast a vote.
4. The right to take such notes as they choose to, including making their own list of who voted.
5. The right to call to the attention of the Election Committee members present any violation of proper procedure that they may observe.

6. The right to remain after the polls close and to keep the ballot box under observation until it is opened.
7. The right to observe the actual counting of the ballots, including the right to examine any suspect ballot.
8. The right to maintain their own tabulation as the Election Committee counts the ballots.

Counting the Votes

In counting the votes in a manual ballot count, it is best to have two Election Committee members examine the ballots themselves, with one of them calling off the names of those who receive votes, and with two others keeping a record of the votes by making a mark after each name that is called on a “tally sheet.” Periodic checks should be made by those two tally clerks to make sure their counts agree.

A number of questions are frequently raised as the ballots are counted concerning the validity of particular ballots. **The following points should be kept in mind:**

1. Such deviations from the instructions on the ballot as making a check mark instead of an “X” should not serve to void a ballot. *If the intention of the voter is clear, count the vote.*
2. If a voter signed his or her name to the ballot, void the entire ballot.
3. If a ballot is partly spoiled, that does not void the entire ballot. For example, if a voter has voted for two candidates for president, the ballot is void for that *office*. But if the same voter voted for only one candidate for recording secretary, count the vote for that office.
4. Write-in votes for candidates who were not nominated are not counted at all; treat them as if they were blank *for the office for which a write-in appears*.
5. Keep a record of the number of totally void or totally blank ballots.

Another problem that frequently causes confusion is the practice of so-called “bullet voting.” Let us review a typical example.

Five candidates are listed on the ballot for executive board member. Three are to be elected. A ballot is cast on which the voter marked, or in the case of blank ballots, wrote-in, only one nominated candidate for executive board member. Should the ballot be counted or voided?

In most cases, it should be counted. A chapter/subchapter constitution may prohibit “bullet voting” and require that each voter vote for three; but such a rule may be established only by the chapter or subchapter constitution. It may not be required by rules set by the Election Committee, and it may not be required by rules adopted by membership vote.

It is either in the chapter or subchapter constitution or it is not. If it is not, then a vote cast for one or two in a situation where the voter could have voted for three is no different than a situation where the voter voted for a candidate for president but chose not to vote for anyone for secretary-treasurer. The vote must be counted.

When the tabulation is completed, the Election Committee should turn its attention to any remaining challenged votes. If the number of challenged ballots is not large enough to change the outcome of any of the contests, the committee is free to refuse to decide the challenges. In that case, they remain in the sealed envelopes but are retained with the rest of the ballots and the election records.

If the number is great enough that it might affect the outcome of one or more races, the committee must then take up each challenge separately and, without opening the envelope, make a decision as to whether or not the ballot should be counted. In those cases where the committee decides to count the ballot, the envelope should be opened and the ballot deposited, unexamined, in the now-empty ballot box. When all challenges are disposed, the ballots in the box should be counted and added to the previous tally. A record should

be maintained of the names of those whose ballots were challenged and of the disposition of each.

The final results should then be placed in written form and signed by the members of the Election Committee. If a third party agency conducts the election, they should place the final results in written form and sign it, along with the members of the Committee. The committee may wish to ask the observers to sign the report, also, but this is not essential and the observers are free to refuse to sign.

Majority Vote

“The candidate for each office receiving a majority of the votes cast for that office shall be declared elected. Any remaining unfilled offices shall be filled through a run-off election ...” (Retiree Elections Code Section 2, Subsection 1)

The word majority, by dictionary definition, means “more than one-half.”

“Majority” **does not mean** “51 percent.” “Majority” does mean “50 percent plus one.”

“Majority” **means** “more than one-half.”

If 99 valid votes are cast, 50 votes are a majority even though 50 is less than 51 percent and less than 50 percent plus one.

But suppose 99 members vote in an election in which three executive board members are to be elected from among eight candidates; now what constitutes a majority? This is a question frequently raised as an Election Committee completes its count, particularly in situations where “bullet voting” is not prohibited. The formula to be used is this:

Take the total of all votes cast for all eight candidates. Divide it by **double** the number to be elected (2×3). Any candidate who has

more votes than the resulting figure (in this case $99 / 6 = 16 \frac{1}{2}$) has a majority and elected.

Run-Off Elections

When the election is completed, those candidates who received a majority of the votes cast for their offices are declared elected. If no candidate received a majority, a run-off election must be held for that office. The ballot for the run-off election will contain two names for each office to be billed. For a single-post office, such as president, this simply means listing two candidates who ran first and second in the original election. In a multi-post office, the situation may be somewhat different. If, for example, nine candidates are running for three executive board positions and only one received a majority, the ballot for the run-off would list the four candidates who finished second, third, fourth and fifth in the original election (i.e., two candidates for each of the two remaining executive board positions).

This “Rule of Two” should avoid the necessity of more than one run-off; but it doesn’t always work. If, in the race for president, no one gets a majority and there is a tie for the second spot, three names must go on the run-off ballot—unless one withdraws. If three names do go on the ballot, the majority requirement still applies and a second run-off is possible.

Suppose, following an election contest in which no candidate received a majority, one of the top two announces his or her withdrawal. Is a run-off still required?

Yes, it is, with the third candidate moving up into the run-off. The only way to avoid a run-off is for all candidates except one to withdraw.

When can a run-off be held? If the election was held at a meeting and the meeting is still in process when the ballots are counted and the results reported, it can be held immediately. Otherwise, the

15-day notice requirement comes into play—unless, of course, the chapter or subchapter has, as part of the original notice informed the membership that a run-off, if one is needed, will be held on a particular day, time and place. In that case, the original notice will suffice.

In any case, the run-off should be held as quickly as possible and under the same general rules as were applied during the original election.

Protests

A protest is not the same as a challenge. A **challenge** questions a nominee's right to run for office. A **protest** questions the actual conduct of the election.

A protest may be filed immediately upon completion of the election or within 10 days thereafter. It should be filed in writing with the Election Committee chairperson.

Protests should be heard by the Election Committee. The final decision to accept or reject this recommendation of the Election Committee is made by the membership or the delegates and it must be decided within 30 days after the protest is filed.

If the membership or delegates decides there were violations of such a nature that they may have affected the outcome of the election, they may order the election, or any part of it, set aside and a new election held.

Appeals on protests (or on challenges) may be made to the Judicial Panel (1) within 10 days following the decision of the chapter or subchapter, or (2) within 40 days after the protest was filed, if no decision has been reached by the chapter or subchapter. (Retiree Elections Code, Section 4, Sub-section D)

There is a tendency on the part of some to file formal protests based on the most minute and technical of violations. This is, of course, the right of any member, and the Election Committee—or the Judicial Panel—is bound to investigate the matter and rule on it.

When the matter is investigated by the Judicial Panel, they tend to take a somewhat practical position. If a violation is found that is of a purely technical nature, they then ask the inevitable question: “Did the violation or could the violation have affected the outcome of the election?” If the answer is “No,” they will not set aside the election.

On the other hand, if serious violations are found or if the violations were of such a nature and scope they might have affected the result, they will order a re-run—and may even supervise it themselves.

Installation of Officers

The Election Committee makes its general report of the tally of ballots to the membership. The membership does not approve the tally results. Their approval is only on recommendations the Committee may make on any protests that may have been filed.

When do the newly elected officers take office?

“Those elected shall be installed in office immediately, but in no event later than 10 days after the tabulation of election ballots, and regardless of any election-related protests that are filed.” (Retiree Election Code, Section 2, Subsection I)

Some chapter and subchapter constitutions have provisions that would seem to provide for delay of anywhere from a few days to a couple of months between completion of the election and the installation of the new officers. No such provision is valid. Those elected must be installed **immediately**. This means that these

elected officers who are present when the Election Committee completes the tabulation of ballots should be installed at that time. For those elected officers who are not present, the Retiree Election Code requires that arrangements be made to install them no later than 10 days after the tabulation. The installation of officers may not be delayed because of any pending election-related protests or the scheduling of a membership meeting.

The outgoing officers are obligated to turn over to their successors “all books, papers and other property” of the chapter or subchapter, and they remain under bond until they have done so.

Who installs the new officers?

Any member with a copy of the AFSCME Constitution. But, actually, the newly elected are the officers of the chapter or subchapter from the moment the Election Committee’s report was accepted. They are legally bound by the “Obligation of an Officer,” the oath found in Appendix B of the International Constitution, whether or not they ever raised their hands and recited the words.

Length of Term

For how long do the new officers serve before they must seek re-election?

The length of term for each office is set in the chapter or subchapter constitution. Chapters or subchapters may make different provisions, by amendments to their chapter or subchapter constitutions, subject to the approval of the International President. The absolute maximum term of office is three years for chapter/sub-chapter officers and trustees. Any amendment that increases the length of the term would, of course, not extend the terms of the incumbents but would take effect with the following election.

Elections to Fill Vacancies in Office

Vacancies in office may occur for any number of reasons: death; resignation; transfer to another chapter or subchapter because of change in residence; removal from office following charges and trial procedures; or loss of eligibility for membership in the chapter or subchapter. Officers may also be removed, if provided in the chapter or subchapter constitution, for three or more consecutive unexcused absences from membership or Executive Board meetings.

There are two basic methods that may be used to fill vacant offices:

1. Election by the Executive Board.
2. Election by the membership in a special election.

For both of these methods there must be an opportunity for nominations to be made and the election must be conducted by secret ballot vote.

If the second method is used, the notice requirements and all other rules pertaining to regular elections are in force. Chapter and subchapter constitutions should provide which of these methods is to be used. If the chapter or subchapter constitution is silent on the subject, the vacancy is filled by election by the Executive Board.

Vacancies *may not* be filled:

1. By appointment by the president, even when that appointment requires subsequent ratification by the Executive Board or the membership.
2. By selection by the Executive Board, subject to ratification at a membership meeting. If the membership is to vote on the question, they must be given the opportunity to nominate and elect, not just vote for a board-selected candidate or no one.

In some chapters and subchapters, if the office of president becomes vacant, the vice president automatically succeeds to the presidency and the office of vice president is then declared vacant and is filled.

This is perfectly proper procedure **if it is spelled out in the chapter or subchapter constitution.**

Whatever method is used, any person who fills a vacancy does so for the remainder of the scheduled term of office of the person he or she succeeds.

Election to Retiree Chapter Conventions

Subchapters shall elect delegates to chapter conventions in the manner prescribed for the election of subchapter officers.

Delegates, however, are not officers, and while they are elected in the same manner as are officers, there are certain differences.

First, the majority vote requirement does not apply to the election of delegates unless the subchapter constitution specifically provides for a majority requirement. The reason for this is simply that if the majority rule should result in a run-off election, the conference might well be over before a delegate was elected.

Second, in the case of delegates to Conventions of the International Union, the length-of-membership requirement for eligibility to run is set by the International Constitution (Article IV, Section 12) as membership from and after the fourth full month preceding the opening of Convention, and no chapter/subchapter may change that requirement or establish any different requirement.

Third, again in the case of the International Convention, a delegate must be nominated and elected during the last 120 days preceding the opening of the Convention. This time limit does not apply to those few affiliates that have regularly scheduled meetings less often than once every three months; nor does it affect the right of an elected officer of the local to serve where the constitutionally prescribed duties of that office include the duty to serve as a delegate to the International Convention.

Fourth, it is possible for a subchapter to elect as its delegate to the chapter convention someone who is a member of another subchapter, instead of one of its own members. In order to do this, the subchapter must first vote on the question: “Shall this subchapter elect as a convention delegate a person who is not a member of this subchapter?” If that question is answered “Yes” by a majority vote, the subchapter may then proceed to elect a delegate who (1) was already elected a delegate by another subchapter (as long as that subchapter is affiliated with the same chapter) or (2) is a delegate representing the chapter with which the subchapter is affiliated (such as a chapter officer who may automatically be a convention delegate). The limit on this kind of joint representation is that no individual may represent more than five subchapters.

Finally, the time table for protests on the election of delegates is much shorter than for officer elections. The protest must be filed with and decided by the chapter/subchapter by or on the date of the meeting at which the report of the Election Committee is acted on. Any appeal from that decision to the Judicial Panel must be filed within five days thereafter. (See Appendix D, Section 5, of the International Constitution).

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Voting by Mail

Elections conducted by mail are not encouraged. These elections are more complicated than those conducted in-person, and as a result, there is a greater chance of encountering problems that can adversely affect the election process. Mailing lists are frequently inaccurate, deliveries are sometimes slow, and elections of this type lend themselves to fraud and manipulation more easily than do other kinds of elections.

Nevertheless, there are some chapters and subchapters with membership spread over such a large geographical area that mail votes are almost the only practical method of providing every member with “a reasonable opportunity to vote.”

If elections are to be conducted by mail, the following procedures are recommended:

1. The mailing to each member should contain:
 - a) A ballot.
 - b) A plain envelope (or one with the word “ballot” printed on it).
 - c) A stamped envelope addressed to the point to which ballots are to be returned, with a place for the member to write his or her name on the outside (or, if possible, with his or her name already on it).

- d) A set of instructions, which may be printed on the ballot itself.
2. The member should be instructed to:
 - a) Mark the ballot.
 - b) Place it in the plain envelope (or the one marked “ballot”) and seal it.
 - c) Place the plain envelope in the pre-addressed envelope, seal it, sign it on the outside, and mail it no later than a specified date.
3. The Election Committee should carefully supervise the mailing to the members. Official observers designated by the candidates are entitled to be present during the addressing, stuffing and mailing.
4. The return envelopes should be addressed to a neutral address, not to the chapter or subchapter office or to someone’s home. The best way is to have them returned to a post office box requiring two keys to open. One of these keys should be retained by the chairperson of the Election Committee and the second by another committee member.
5. The recommended time between the mailing of the ballots and the opening of the box is 20 days. If this amount of time is allowed, it is not necessary to do a separate mailing of an “Election Notice” 15 days in advance; the ballot itself constitutes notice.
6. The box should be opened on the specified date, with the observers invited to be present.
7. The names on the envelopes should be checked against the membership list, and as each is verified, the envelope should be opened and the inner envelope containing the ballot should be dropped in a ballot box.
8. When the verification process is completed, the plain envelopes should be opened, and the ballots removed.

9. The ballots are then tabulated and the report made in the same manner as for any other kind of election.

There are at least two temptations that **must** be avoided:

1. The temptation to save money by not putting stamps on the return envelopes. The subchapter **may not** require a member to purchase a stamp and put it on the envelope as the price for voting.
2. The temptation to save money by mailing only to those members located in outlying areas and requiring those working or living in nearby areas to vote at a polling place. **Everyone** votes by mail or **no one** votes by mail.

Retiree Election Code

Section 1 General Provisions

- A. No funds or other resources of the Federation or any subordinate body, and no funds or resources of any employer, shall be used to support the candidacy of any member for any elective office within an AFSCME retiree organization.
- B. No publication sponsored by or supported by the Federation or any subordinate body shall endorse or support any candidate for elective office within an AFSCME retiree organization.
- C. Any nominee or announced candidate for elective office shall have the right once prior to the election to have mailed through the chapter or subchapter office, but at private expense, campaign literature. In a subchapter election, such literature may be mailed to each member in good standing. In a chapter election, such literature may be mailed to each affiliated subchapter and/or to each member in good standing.

Section 2 Election of Chapter and Subchapter Officers

- A. To be eligible for election, a nominee must be a member in good standing of the retiree organization in which the nominee seeks office, and must meet such other conditions as are stipulated in the approved constitution of the retiree organization.
- B. An Election Committee shall be established and shall have general responsibility for the conduct of the election in accordance with the constitution of the chapter and/or subchapter. Any challenge concerning the eligibility of any nominee shall be referred to the Election Committee for decision, and the decision shall be reported to the membership prior to the election. The Election Committee shall also report, as expeditiously as possible, the results of the balloting, together with recommendations regarding any protests which were lodged regarding the conduct of the election. No member of the Election Committee may be a candidate for office.
- C. The terms of office for officers of chapters and subchapters shall be set forth in the constitution of each chapter and subchapter, but may not exceed three years.
- D. Not less than 15 days prior to the holding of nominations for officers to be elected by direct vote of the membership of a chapter or a subchapter, a notice of the nominations and elections shall be mailed to each member at the member's last known home address. Notice of nominations and elections for officers of chapters with subchapters who elect chapter officers by delegates shall be sent to each affiliated subchapter president not less than 50 days prior to the election or notice may be given as required by the chapter's approved constitution.
- E. Nominations may be made at a regular or special meeting by a chapter or subchapter member or by a chapter delegate. Nominations also may be made by a Nominating Committee,

unless prohibited by the constitution of the subchapter or chapter. Those nominated shall be afforded the opportunity to decline, and the name of any nominee who declines shall not appear on the ballot. Write-in votes shall not be valid for any purpose.

- F. In any case where there is only one nominee for office, such nominee shall be declared elected. In all other cases, election shall be by secret ballot. All chapter or subchapter members or chapter delegates shall be afforded a reasonable opportunity to vote.
- G. Subchapter elections of officers shall be by vote of the membership and may be conducted at the same meeting as nominations or at the following meeting or by referendum, as provided in the approved subchapter constitution. Chapter elections of offices may be by vote of sub-chapter delegates or by vote of the membership and shall be held in accordance with the approved constitution of the chapter.
- H. Any candidate whose name appears on the ballot shall have the right to have present an official observer of the candidate's own choosing, who must be a member of a chapter or subchapter, in all places where ballots bearing the candidate's name are to be cast or counted.
- I. Upon completion of the voting, the ballots shall be tabulated and the candidate for each office receiving a majority of the votes cast, for that office, shall be declared elected. Any remaining unfilled offices shall be filled through a run-off election in which there shall be a ballot, bearing two names for each office to be filled, such names being those nominees who received the greatest number of votes in the first balloting, and the candidate receiving the highest number of votes shall be declared elected. Those elected shall be installed in office immediately, but in no event later than 10 days after the tabulation of the election ballots and regardless of any election-related protests that are filed. Upon installation of the new officers, the names, addresses and terms of office of the newly elected offices shall be

submitted to the Retirees Department, AFSCME International headquarters, so that credential cards may be issued. The pre-election incumbents shall remain in office until new officers are installed. The Election Committee will inform the chapter/subchapter of the results of the tabulation of ballots.

- J. Vacancies in offices shall be filled in accordance with provisions of the constitution of the subchapter or chapter. If no constitutional provision exists, vacancies shall be filled by vote of the Executive Board of the subchapter or chapter.
- K. All election records, including ballots, shall be retained by the subchapter or chapter for at least one year after the election.

Section 3 Election of Conference Delegates

- A. Subchapters shall elect chapter delegates in the manner prescribed for the election of subchapter officers, subject to the provisions of paragraph C, below.
- B. Chapters shall elect delegates to the International Convention or conferences of the retiree organization in the manner prescribed for the election of subchapter and chapter offices.
- C. The election by a Subchapter of chapter delegates and of delegates to the International Convention or conferences of the retiree organization shall not require a majority of the votes cast unless such requirement is specifically contained in the subchapter constitution.

Section 4 Challenges and Protests

- A. Any member of a subchapter or chapter may challenge the eligibility of any nominee by filing such challenge with the Election Committee, prior to the holding of the election.

The Election Committee shall make a determination regarding the challenge, and shall report its ruling to the appropriate subchapter or chapter. The subchapter or chapter shall either accept or reject the ruling of the Election Committee prior to the election.

- B. Any protest concerning the conduct of the election may be lodged at the meeting at which the election is conducted or by filing such protest in writing with the appropriate body or the Election Committee, within 10 days following the election. All interested parties shall be afforded an opportunity to be heard not later than 30 days after the filing of the protest. The membership of the subordinate body shall either accept or reject the recommended decision of the Election Committee.
- C. If the subchapter or chapter determines that these were violations that may have affected the outcome of the election, it may order such election or any part thereof set aside, and a new election held. Any officers who were installed prior to such determination shall remain in office pending the outcome of any new election or of a future appeal.
- D. Any protestant or nominee adversely affected by a decision on a challenge or protest may file a written appeal with the Judicial Panel within 10 days of the retiree organization's decision, or if no decision has been rendered, within forty days after filing the original protest. Upon receipt the matter shall be referred to one or more members of the Judicial Panel to conduct an investigation, affording all interested parties an opportunity to be heard, and such member or members shall issue a decision within 40 days. If the investigation finds that there were violations which may have affected the outcome of the election, the election or any part thereof may be set aside and a new election held. When a new election is ordered by the Judicial Panel, the new election may be conducted under the supervision of a representative designated by the Panel member or members who conducted the investigation.

- E. The decisions of the Judicial Panel on challenges and protests arising out of retiree chapters or subchapters may be appealed to the full Judicial Panel by filing written notice of such appeal within 10 days after the decision is issued. Should a decision not be issued within the time limit set forth above, an appeal to the full Judicial Panel may be filed within 10 days after the expiration of such time limit. The Judicial Panel shall hear and decide such appeal at its next meeting. The Judicial Panel shall provide an opportunity for all interested parties to be heard, and shall consider all other information obtained in the investigation conducted by a member or members of the Judicial Panel. Decisions of the full Judicial Panel shall be final.
- F. No subordinate body funds shall be used to institute legal action outside the union to challenge election rulings.
- G. Challenges and protests regarding the election of chapter delegates shall be handled in the manner prescribed for challenges and protests regarding the election of officers for subchapters and chapters.
- H. If the right of a delegate from a subchapter or chapter to be seated at a state, regional or national conference of the retiree organization is challenged, the Credentials Committee shall review the decisions of the Judicial Panel before making a decision concerning the validity of the delegate's credential.

Section 5

The Provision of the Retiree Election Code shall conform with applicable law.

**REVISED AND APPROVED BY THE INTERNATIONAL
EXECUTIVE BOARD ON SEPTEMBER 14, 2016.**



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and Municipal Employees, AFL-CIO

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