

# 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 Subchapters must meet in conducting elections. The requirements also apply to those Retiree Chapters that do not have Subchapters. For statewide Chapters with Subchapters, different rules may apply.

The Retiree Elections Code—and not this manual—is the last word on whether an election is valid. The International Executive Board investigates alleged irregularities in elections and applies the appropriate provisions of the Constitution. This manual does not affect that procedure, nor does it deal with provisions that may exist in Retiree Chapter or Subchapter constitutions.

Rather, the manual has attempted to make the election process clear to every AFSCME retiree member. I urge that all Retiree 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 organization as a democratic institution.



Lee Saunders  
*President*



Laura Reyes  
*Secretary-Treasurer*

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## When Are Elections Held?

The time for holding Subchapter elections must be spelled out in the 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 Subchapter regularly uses. If the officers are elected for one-year terms, that is all the language that is needed.

If the Subchapter has, by proper vote, established two-year terms for its officers, the constitution should indicate that elections are held in a specific month “in each odd-numbered year.” If three-year terms are established, the constitution should call for elections in a specific month “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 and/or installation of officers was delayed. Such a delay might have come about because of a run-off election, a valid protest which resulted in a re-run of the election, or perhaps 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.

“Not less than 15 days prior to the holding of nominations for Subchapter officers, a notice of the nominations and elections shall be mailed to each member at the member’s last known address.” (Retiree Elections Code, Section 2, Sub-section D)

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**Note:** With few exceptions, references to Sub-chapters in this *Election Manual* also apply to Retiree *Chapters* that *do not* have Sub-chapters.

The notice should indicate what offices are to be filled and should state the date, time and place of both the nominations meeting and the election. (Nominations and elections can, from a legal standpoint, take place at the same meeting, through this is not practical for most Subchapters.)

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 some other subject. Notice may also, of course, be given in a special letter addressed to each member. The important thing is that the notice be mailed to all members at least 15 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 Subchapter members concerning the nominations and elections in addition to the mailed notice.

## Making Nominations

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 has been 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

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\* While it is not legally required, it is customary for the President to relinquish the chair to someone who is not going to be a candidate to conduct the nominations.

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 is seeking the floor for the purpose of making a nomination.

Some Subchapters use a Nominating Committee. A Nominating Committee, like any other committee, is ordinarily appointed by the Subchapter President with the approval of the Executive Board. The use of a Nominating Committee is permitted under the Retiree Elections Code, but 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 has nominated Jane Doe for President. Are there any other nominations for President?” and would then continue just as if no Nominating Committee has been used.

As nominations are closed for each office, in any case where there is only one nominee and where that nominee has indicated he or she will accept the office, the unopposed candidate 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 he or she does not take the positive action of declining, his or her name must go on the ballot.

- If he or she declines, he or she is not a candidate.
- If he or she accepts, he or she is a candidate.
- If he or she does neither, he or she is assumed to be a candidate.

Ordinarily, the nominee is offered the opportunity to decline at the same meeting at which he or she is nominated. If he or she 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, he or she 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 Subchapter office at the same time. If a member is nominated for two or more offices in the same election, he or she must decline all except one such nomination. If the nominee fails to indicate which office he or she wishes to seek, the Election Committee should assume the nominee is running for the first office for which he or she was nominated and assume he or she has declined all other nominations.

Some 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 have been filled. While such a procedure is legal—if spelled out in the 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 would apply to Subchapters.**

The candidate “must be a member in good standing of the Subchapter in which the nominee seeks office.” (Section 2, Sub-section A)

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, Sub-section A)

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

The rule in most 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 Subchapter. 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 has 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, he or she 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 Subchapters may not establish eligibility requirements which include:**

- Attendance at some minimum number of membership meetings during the preceding year.
- Physical presence or written notice of acceptance of a nomination at the nomination meeting.
- 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 Subchapter Committee, is ordinarily appointed by the Subchapter President, with the approval of the Executive Board. Some Subchapters may attempt to provide for election of the Election Committee. Such attempts generally break down in discussions over who 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 Subchapters, the President is an ex-officio member of all committees. But, he or she may not serve as a member of an Election Committee in any election where he or she is a candidate (nor may any other candidate serve on the Election Committee). Because of this restriction, it is generally best to wait until after the nominations have been completed before appointing the Election 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 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 Subchapter constitution or have already been decided by membership vote. Aside from such matters, **the Election Committee must be prepared to handle eight basic duties. The Committee must:**

- Make sure that each nominee has been offered the opportunity to decline the nomination.
- Hear and decide, subject to membership approval, any challenge which may be made concerning the eligibility of any nominee.
- 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.)

- Prepare or supervise the preparation of the ballots.
- 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.
- Count the ballots and certify the results of the election.
- Hear and decide any protests that may be filed concerning the conduct of the election.
- 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:**

- The nominee has not been a member of the Subchapter for the length of time required by the constitution.
- The nominee has been declared ineligible for a time period which 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 takes place. The Committee's decision is subject to acceptance or rejection by the membership.

Action on a challenge may later be appealed to the International Executive Board. 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 the Subchapter can be found in Section 1 of the Retiree Elections Code. These provisions are:**

- No funds of the Federation or any subordinate body can be spent in campaigning for any elective office within an AFSCME retiree organization.
- 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.
- Any member who has been nominated for office or who announces his/her intention to run for office has the right to one mailing to the membership—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 put on 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 borne by the candidate or his or her 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. Subchapters may, of course, make additional rules on such matters as how far from the polling place campaigning can take place. The major tests of any additional rules the Subchapter may adopt are:

- Are the rules reasonable?
- 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.

This notice must be “mailed to each member at the member’s last known address at least 15 days before the election date.” It 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 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. 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 complicated 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.

**Do not** list on the ballot any office for which there is only one candidate. That candidate has 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 him or her 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 as well as to give the accurate spelling of his name.

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

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

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

Some 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 have taken place. 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 has been 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 that the exact number are in fact printed.
3. Take charge of the ballots immediately upon completion of the printing, safeguarding them until the elections take place.

## 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:**

- “... election shall be by secret ballot.”
- “All Subchapter members shall be afforded a reasonable opportunity to vote.”

The first of these rarely causes problems. 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 which affords the voter the opportunity to mark the ballot without any other person observing is acceptable. After the person marks it, he or she 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 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. For larger Subchapters this system 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 Subchapters can be solved. **Three kinds of “solutions” that are occasionally attempted, however, are prohibited:**

- There can be no proxy voting. No member can authorize another to cast a vote for him or her.
- Mail ballots cannot be used for those who are on duty during voting hours. Balloting by mail must be done by all members or by none.
- There can be no “absentee” voting. In the rare instances where this has been tried, it has been found that 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 his or her 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 insist that he or she is a member. If the person can produce evidence that he or she is paying dues—a stub from a current pension check showing checkoff of dues, or a receipt for current dues issued by the 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 which 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 have lost 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 his or her 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 taking place.

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:

- The right to inspect the ballot box at any time up to the moment the election is to start.
- The right to be present in the room where the election is taking place throughout the hours set for the voting.
- The right to challenge any voter whom they think is not eligible to cast a vote.
- The right to take such notes as they choose to, including making their own list of who voted.

- The right to call to the attention of the Election Committee members present any violation of proper procedure which they may observe.
- The right to remain after the polls have closed and to keep the ballot box under observation until it is opened.
- The right to observe the actual counting of the ballots, including the right to examine any suspect ballot.
- The right to maintain their own tabulation as the Election Committee counts the ballots.

## Counting the Votes

In counting the votes, 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 that their counts agree.

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

- 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.*
- If a voter has signed his or her name to the ballot, void the entire ballot.
- 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 has voted for only one candidate for Recording Secretary, count the vote for that office.
- Write-in votes are not counted at all; treat them as if they were blank *for the office for which a write-in appears*.
- 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 look at 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 has marked only one candidate for Executive Board Member. Should the ballot be counted or voided?

In most cases, it should be counted. A Subchapter constitution may prohibit “bullet voting” and require that each voter vote for three; but such a rule may be established **only** by the 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 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 has been 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 have been disposed of, 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. 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

### **In accordance with the Local Union Election Manual:**

“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 ...”

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

“Majority” does **not** mean “fifty-one percent.”

“Majority” does **mean** “fifty 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 ( $2 \times 3$ ). Any candidate who has more votes than the resulting figure (in this case  $99 / 6 = 16 \frac{1}{2}$ ) has a majority and has been 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 slots).

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 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, if the committee has not yet been discharged, or with the President or Secretary of the Subchapter.

Protests should be heard by the Election Committee, in the first instance, unless the committee has been discharged prior to the filing of the protest. In any event, the final decision should be made by the membership and it must be decided within 30 days after the protest is filed.

If the membership decides that 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 **International Executive Board** (1) within 10 days following the decision of the Subchapter, or (2) within 40 days after the protest was filed, if no decision has been reached by the 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 Subchapter—or the International Executive Board—is bound to investigate the matter and rule on it.

When the matter is investigated by the International Executive Board, 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 that 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 to the membership. The membership votes to accept it. (If there is no formal protest pending, the membership has no choice but to accept it.)

### **When do the newly elected officers take office?**

Those elected shall be installed in office immediately upon the Subchapter’s acceptance of the Election Committee’s general report on the election (in accordance with the Local Union Election Manual).

Some 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**.

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



Who installs the new officers? Anybody with a copy of the AFSCME Constitution. But, actually, the newly elected have been the officers of the 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 have 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 Subchapter constitution. Generally, the terms are one year for all officers except Trustees. The Trustees serve three-year terms, with one term expiring each year. Subchapters may make different provisions, by amendments to their Subchapter constitutions, subject to the approval of the International President. The absolute maximum term of office is three years. Any amendment which 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 Subchapter because of change in residence, removal from office following charges and trial procedures, or loss of eligibility for membership in the Subchapter. Officers may also be removed, if provided in the Subchapter constitution, for three or more consecutive unexcused absences from membership or Executive Board meetings.

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

- Election by the Executive Board.
- Election by the membership in a special election.

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

**Vacancies may *not* be filled:**

- By appointment by the President, even when that appointment requires subsequent ratification by the Executive Board or the membership.
- 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 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 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 of Convention Delegates

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.

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) has already been 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 Subchapter on the date of the meeting at which the report of the Election Committee is acted on. Any appeal from that decision to the International Executive Board must be filed within five days thereafter. (Retiree Election Code, Section 5, Sub-section A)

## Voting by Mail

Elections conducted by mail are not encouraged. 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 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 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:

- 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.
- 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 of the Federation or any subordinate body 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, 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 Subchapter in which the nominee seeks office or of a Subchapter affiliated with the Chapter in which the nominee seeks office, and must meet such other conditions as are stipulated in the approved constitution of the Chapter or Subchapter.
- 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 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 have been 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 for a Subchapter officer or four years for a Chapter officer.
- D. Not less than 15 days prior to the holding of nominations for Subchapter officers, a notice of the nominations and elections shall be mailed to each member at the member's last known address. Notice of nominations and elections for Chapter officers shall be sent to each affiliated Subchapter 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 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 Subchapter members or Chapter delegates shall be afforded a reasonable opportunity to vote.
- G. Subchapter elections 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 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 candidates own choosing, who must be a member of a Chapter or Sub-chapter, 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 upon the Subchapter's or Chapter's acceptance of the Election Committee's report on the election, at which time 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.
- 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. Subchapters and Chapters shall elect delegates to national 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 national 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, within 10 days following the election. All interested parties shall be afforded an opportunity to be heard. Such protests shall be decided by the Subchapter or Chapter, not later than 30 days after the filing of the protest.

- C. If the Subchapter or Chapter determines that these were violations which 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 have been 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 may file a written appeal with the Subchapter's or Chapter's decision, or if no decision has been rendered, within 40 days after filing with the International Executive Board within 10 days after original protest with the appropriate body.

Upon receipt of such an appeal, it shall be referred to the International President, who shall designate a member or members of the International Executive Board or a member or members of the staff of the International Union to conduct an investigation, affording all interested parties an opportunity to be heard, and to make a report of findings and recommendations to the International President within 20 days. The International President shall then refer the matter to the International Secretary-Treasurer to be placed on the agenda of the next meeting of the International Executive Board for decision. If the International Executive Board finds that there were violations which may have affected the outcome of the election, the International Executive Board may order the election or any part thereof set aside and a new election held. When a new election is ordered by the International Executive Board, the International President may direct that such new election be conducted under the supervision of a representative designated by the International President. The decisions of the International Executive Board on challenges and protests arising out of Retiree Chapters or Subchapters shall be final and may not be appealed to the International Convention.

- E. No subordinate body funds shall be used to institute legal action outside the Union to challenge election rulings.
- F. 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.

## **Section 5**

### **Challenges and Protests Regarding Election of Delegates to Conferences of the Retiree Organization**

- A. A challenge or protest regarding the election of delegates to Chapter, state, regional or national conferences of the retiree organization must be filed with a Subchapter or Chapter and decided by or on the date of the meeting at which the report of the Election Committee is voted on. A written appeal from the decision of either body may be filed with the International Executive Board, not later than the fifth day following the Subchapter's or Chapter's action on the challenge or protest. The appeal will be handled in the manner provided in Section 4. However, if the timing of a Retiree Conference is such that no International Executive Board meeting will be held prior to the conference, the International President may decide any protest relating to such conference, and, under such circumstances, the decision of the International President shall be final.
- B. 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 report and decisions, if any, of any prior appeals before making a decision concerning the validity of the delegate's credential.

## **Section 6**

### **The Provision of the Retiree Election Code Shall Conform with Applicable Law**

ADOPTED AND APPROVED BY THE INTERNATIONAL EXECUTIVE BOARD ON JUNE 8, 1979.





American Federation of State, County  
and Municipal Employees, AFL-CIO

Lee Saunders  
*President*

Laura Reyes  
*Secretary-Treasurer*

AFSCME Retirees  
1625 L Street, NW  
Washington, DC 20036  
[afscme.org](http://afscme.org)