

- Election officials should inform all candidates of the election rules and procedures as soon as possible. See Figure 2 - Election and Campaign Rules.
- Election officials should also consider holding a meeting with candidates to discuss all election and campaign rules and to answer any questions.
- Election officials should advise candidates about the prohibition against the use of union and employer funds. Election officials may also wish to encourage candidates to keep records of campaign contributions and expenses so that any allegations of improper use of union or employer funds can be resolved.
- Current officers and union employees should be cautioned to take vacation time or a leave of absence if they are going to campaign during work hours, especially on election day.
- Candidates should be asked how they would like their names to appear on the ballot.
- If election officials decide to allow one candidate to campaign in some way that was not previously announced, they should immediately notify all other candidates that they will be allowed the same privilege.
- Election officials should, to the extent possible, attempt to insure that the employer(s) treats all candidates equally with respect to access to work sites for campaigning.
- Election officials should be courteous but firm with all candidates and avoid confrontations if possible.
- Although election officials cannot control candidate behavior, they should encourage candidates to act in a responsible manner and to raise any questions or problems as soon as possible so that election officials have a chance to remedy the matter or change the election rules and procedures.
- Candidates should be advised of any rules for choosing observers and be encouraged to tell their observers about election procedures and rules prior to election day.

Common Pitfalls

- Ignoring the rights of candidates guaranteed by federal law.
- Failing to timely advise all candidates of the campaign rules and any changes which become necessary.
- Failing to take corrective action promptly if one candidate is given an improper advantage over other candidates.

<p>LMRDA Reference:</p> <p>Section 401(c) provides that:</p> <p><i>Adequate safeguards to insure a fair election shall be provided</i></p>	<p>Union Constitution Reference:</p>
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<p>Notes:</p>

Chapter 6: Distributing Campaign Literature

As noted in Chapter 5, federal law establishes certain campaign rights for candidates in union officer elections including the right to have campaign literature distributed to the membership by the union at the candidate's expense. In some unions the officers or employees may be involved in the campaign literature distribution process; in other unions, election officials or a professional mailer may handle requests from candidates. No matter what the practice, a union has a duty to comply with all reasonable requests to distribute literature and to treat all candidates equally. Any refusal to comply with a reasonable request is improper and could result in the election being successfully challenged. Election officials can avoid many problems concerning the distribution of campaign literature by establishing distribution procedures prior to the campaign period and informing all candidates about them.

Requirements

- A union must comply with all reasonable requests by a candidate for distribution of campaign literature at the candidate's expense. Federal law does not define "reasonable request" but election officials should try to comply with all requests to the extent possible, since any refusal might later be determined to have been unreasonable.
- Other than by mail, there is no prescribed manner in which unions must distribute campaign literature. Likewise, unions are not required to provide candidate access to all methods of distribution that may be available to the union. Generally, if the candidate's request for an alternative method of distributing campaign literature is a reasonable one, the union is required to make the distribution. Accordingly, OLMS advises unions to comply with candidate's reasonable request to distribute campaign literature to the membership through e-mail if the union uses e-mail to disseminate information to its members.
- Each candidate must be treated equally with respect to the cost of distributing campaign literature. There is no requirement that the union distribute literature free of charge. However, if a union distributes any candidate's literature without charge, all other candidates should be notified that they are also entitled to have their literature distributed without charge.
- A union should inform all candidates of the procedures for distributing literature in advance of the campaign period.
- A person need not be formally nominated to be entitled to distribute campaign literature. A union must distribute campaign literature for a bona fide candidate seeking to be nominated who makes a request, even if a union rule prohibits campaign mailings prior to nominations.
- A union may not regulate the contents of campaign literature it is asked to distribute and may not require that it be permitted to read the literature before distribution. The union may not censor campaign literature in any way, even if the literature includes derogatory remarks about other candidates. A union's contention that mailing certain campaign literature may constitute libel does not justify a refusal to distribute the literature since the union is under a legal duty to distribute the material.
- A union must honor requests for distribution of literature to all members in good standing and must also honor requests for distribution to only a portion of the membership if such distribution is feasible.
- A union may not refuse to distribute literature because it has no staff or a small staff. If necessary, a union should employ additional temporary staff, use a professional mailer, or have the election officials make the distribution in order to comply with any requests. Any costs (for producing address labels, hiring temporary employees, etc.) can be passed on to each candidate requesting a distribution of literature.

- If election officials discover that a candidate has used a “personal” mailing list which was created or obtained as a result of the candidate (or a supporter) serving as an officer or in a union job, the list should be made available to all other candidates.

Common Pitfalls

- Allowing one candidate to do more than inspect (such as copy) the union’s membership list without giving other candidates the same privilege.
- Denying a bona fide candidate who is yet to be nominated the right to inspect the membership list within 30 days before the election.

<p>LMRDA Reference:</p> <p>Section 401(c) provides that:</p> <p><i>. . . every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate ... to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof.</i></p>	<p>Union Constitution Reference:</p>
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Chapter 8: Union and Employer Funds

Although union funds may be used to pay for nomination and election notices and other expenses for conducting the election, federal law strictly prohibits the use of union and employer funds to promote the candidacy of any person in a union officer election. This prohibition was adopted to prevent a current officer from being able to use the union treasury to help finance an election campaign. It was also intended to prohibit an employer from being able to influence the outcome of a union election. Unfortunately, the use of union or employer funds is a relatively common problem in union officer elections. In many cases, however, the improper use is unintentional since the candidates, union officials, and employers simply do not know the extent of the restriction and that it applies to facilities, equipment, and supplies as well as cash. Election officials are presented with a challenge in that they do not control access to a union's or employer's funds, but are still expected to conduct an election in which no such funds are used. Therefore, election officials should make sure that all candidates, union officials, and union employees are aware of the restriction on the use of union and employer funds and should be alert throughout the election process for any improper use of funds.

Requirements

- A union or employer may not contribute money or anything of value (such as the use of facilities, equipment, or supplies) to promote the candidacy of any individual in a union officer election.
- The restriction on the use of union funds applies to all moneys received by the union by way of dues, assessment, or similar levy.
- The prohibition against the use of union and employer funds applies to any union and any employer, not just the union conducting the election or an employer of the union's members. For example, it is improper for a candidate to have campaign literature duplicated free of charge on a copy machine at a small business owned by a relative of the candidate.
- Any expenditure of union or employer funds on behalf of a candidate, even if the amount is small, is a violation of federal law.
- The use of union/employer funds or facilities is a violation of federal law even if union officials or the employer do not know about or approve of the use.
- The prohibition against the use of union and employer funds applies to direct expenditures from the union or employer as well as indirect expenditures including:
 - campaigning on time paid for by the union or employer
 - use of union/employer owned or leased equipment such as telephones, fax machines, and copy machines
 - use of union/employer supplies such as stamps, paper, and envelopes
 - use of union employees to prepare campaign literature while on union time
 - use of the union letterhead
 - use of union/employer property or facilities
 - printing articles which support or criticize an individual's candidacy in a union newspaper or other publication
 - giving free services or special discounts to a candidate customer such as printing, photocopying, etc.
- A union may adopt additional rules governing contributions to campaign funds such as prohibiting contributions from any person who is not a member of the union.

- Certain uses of union and employer funds which do not support one person’s candidacy over another are acceptable, such as providing the use of equipment, facilities, or publications to all candidates on an equal basis after giving them notice of this opportunity.
- Campaigning by union officials which is “incidental” to union business is not a violation of federal law. For example, any campaigning by union officials which occurs as a consequence of conducting legitimate union business, such as shaking hands with members while visiting work sites on official business, is permissible.

- Current officers and union employees should be cautioned to take vacation time or a leave of absence if they are going to campaign during work hours, especially on election day.
- If election officials become aware of any improper use of union or employer funds before the election occurs, they should take appropriate corrective action such as requiring a candidate to reimburse the union or employer.
- Election officials should consult with the union’s parent body or OLMS if they are unsure as to what specific action should be taken to remedy an improper use of union or employer funds prior to election day.

Suggestions

- To insure that candidates are aware of the prohibition against the use of union and employer funds, election officials should issue rules explaining the restrictions. See Figure 2 - Election and Campaign Rules.
- Election officials should advise union officials about the prohibition against the use of union and employer funds. See Figure 6 - Union and Employer Funds Prohibition Letter.
- Election officials should advise the editor of any union-financed newspaper or other publication that the publication should not promote or criticize a candidate in any way during the nomination and election period such as by publishing articles complimentary of current officers or letters to the editor which are critical of any candidate.

Common Pitfalls

- Not advising candidates and union officials about the prohibition against the use of union/employer funds and resources so that unintentional violations of federal law can be avoided.
- Assuming that the prohibition against the use of union and employer funds applies only to cash expenditures and not to the use of equipment, supplies, or facilities.
- Allowing the union newspaper or other publications to be used to promote the candidacy of current officers.
- Failing to recognize that the use of funds, equipment, supplies, etc., belonging to other unions or employers which do not employ the union’s members is improper.

<p>LMRDA Reference:</p> <p>Section 401(g) provides that:</p> <p><i>No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person</i></p>	<p>Union Constitution Reference:</p>
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