

## **Appendix**

- Audit Procedures
- Code of Professional Conduct for Ohio Educators
- Licensure Code of Professional Conduct for Ohio Educators
- OEA MODEL CONSTITUTION AND BYLAWS 2023
- Manual for the Conduct of Local Association Elections and the Ratification of Collective Bargaining Agreements

# Suggested Audit Procedure

The following is an adaptation of an audit procedure modeled by the document “Conducting Audits in Small Unions: A Guide for Trustees to a 10-Step Audit” published by US Department of Labor.

As an elected leader in your local, you play a key role in making sure that your local’s funds and other assets are properly accounted for and used solely for the benefit of your local and its members. Few tasks could be more critical to the well-being of any organization.

The specific responsibilities for conducting an audit may be outlined in your local’s constitution and bylaws. However, your primary task as a local treasurer and fiduciary is to ensure that all local resources (money/assets) are used for legitimate union purposes as authorized by your membership in accordance with your constitution and bylaws. In addition, you should ensure that your local is properly submitting dues to OEA and is complying with sound practices for financial reporting and recordkeeping. During the audit process you will bear the primary responsibility for communicating with whomever is conducting the audit whether it is a local committee of members or a CPA/Accounting Firm

The audit committee should follow the following steps to prepare to conduct your local audit:

**Determine responsibilities** – consult the constitution and bylaws of the local to determine what is required and the committee should agree upon roles beforehand

**Ensure cooperation of local officers** – the committee should meet with the officers of the local to seek cooperation and support, find out in what form the local’s records exist (Excel, Quicken, written ledger, etc.), determine whether equipment such as a computer or copier is needed and to decide where to conduct the audit.

**Gather materials and request records** – as local treasurer it is likely you will hold most of the records necessary for the committee to conduct an audit. Additionally, the audit committee may require confirmations or reports from OEA as part of their review Your task will be to assist the committee in creating a list of financial records needed for your 6 -step audit and to provide this to the committee. Otherwise, certain records such as membership meeting minutes may not be available when needed.

Financial records cannot be examined efficiently without some explanation of how they tie together. Your job as treasurer will be to provide context for the audit committee as needed.

**Schedule the audit** – the committee should determine the timeline for the audit and prepare a schedule that includes benchmark due dates for various tasks to be completed. Consider within the schedule specific meeting times required and whether these meetings can be virtual or in person to conduct the audit.

**Audit Objectives** - 6-step audit, summarized below, has four primary objectives:

- To ensure that your local’s funds and other assets are properly accounted for and used solely for the benefit of your local and its members.
- To confirm that your local, through the executive board, is transparent to its members through appropriate and accurate financial reporting and recordkeeping.
- To determine whether the internal financial controls of your local are adequate or need to be improved.
- To ascertain whether your local is complying with the financial best practices and procedures recommended within this manual.

## 6-Step Audit Procedure

1. Trace cancelled checks to the bank statements and disbursements journal.
  - a. Select at least two months in your audit period. Your selection of months may be made for a variety of reasons, including an unusually large number of checks written during a specific month or payments for nonroutine items such as convention expenses or a local-sponsored picnic. If your local doesn't have a lot of transactions it may be appropriate to examine the entire fiscal year.
  - b. Obtain the bank statements and all of the corresponding cancelled checks for the period you have selected. Arrange the cancelled checks in numerical order. Keep the cancelled checks together with the bank statements on which they appear. If the bank doesn't return cancelled checks, you can examine the online copies for the audit period.
  - c. Locate the cancelled checks for each of the entries on the bank statements. Place a check mark, in pencil, on the bank statements for each cancelled check. Again, you may use the online bank portal to view copies of cancelled checks.
  - d. Compare the amounts on each cancelled check with the corresponding entries on the bank statements. Make sure that the amounts on the cancelled checks are the same as on the bank statements. Watch for amounts which may have been changed after the checks were returned from the bank.
  - e. Compare the information on these checks with the corresponding entries in your local's disbursements journal (ledger or check register). Make sure that the payee, the amount, the date, and the purpose on each cancelled check are properly recorded in the journal. Look for any discrepancies between the journal entries and the checks. Examine the endorsements, making sure they match the payees on the front of the checks. Ensure that the checks required, and officers executed a dual signature.
2. Scan the disbursements journal and record unusual entries.
  - a. Review the disbursements journal for the entire audit period. Look at the type and frequency of your local's disbursements. You will probably see recurring payments for dues and officer stipends and expenses. Approval for these disbursements should be found in the adopted association budget, constitution and bylaws or the membership meeting minutes. Make a list of any entries which appear to be questionable or out of the ordinary, such as:
    - i. checks for unusually large amounts
    - ii. checks for unusual purposes
    - iii. large checks to unfamiliar payees
    - iv. checks payable to cash
    - v. checks where no purpose is recorded
    - vi. checks written out of sequence
    - vii. duplicate payments for salaries or expenses to the same individual
  - b. Review the supporting bills, vouchers, invoices, and membership meeting minutes for all the checks you have listed. Determine whether they were for legitimate union purposes and whether they were properly authorized.
  - c. Reconcile total disbursements entered in your local's disbursements records for the audit period with the total charges shown on your local's bank statements for the audit period. This will further verify the accuracy of the entries recorded in your local's disbursements records.
3. Trace employer dues payroll deductions to the receipts journal and bank statements.
  - a. Gather all your local's payroll dues receipts records for the entire period including checkoff statements from your employer.
  - b. Compare, for each month in your audit period, the amounts posted on all the payroll dues deduction statements with the corresponding entries in the local's receipts journal. Look for any discrepancies.
  - c. Compare the members listed on the payroll deductions report to the member roster provided by OEA to ensure all members have been recorded for accurate billing purposes.
  - d. Compare dues payment made to OEA from payroll deduction to the statements received from OEA. There may be timing differences between the payment to OEA date and the statement. Verify OEA has recorded for the local all dues the local has recorded as paid.

4. Confirm that receipts from all other sources have been properly recorded and deposited.
  - a. Review the receipts journal for the entire audit period. Look for the type and frequency of non-dues money coming into your local, such as proceeds from:
    - i. the sale of promotional items such as t-shirts
    - ii. interest or dividends earned on your local's bank accounts
    - iii. local-sponsored raffles
    - iv. donations to the local scholarship fund
    - v. OEA grant reimbursements
  
5. Identify all liquid asset bank accounts, verify their ending balances, and review withdrawals/transfers.
  - a. Make a list of the name, location, type of account, and account number for each of your local's bank accounts.
  - b. Determine what happened to the proceeds from any local accounts closed during the audit period.
  - c. Determine whether the initial deposit into any accounts opened during the audit period can be traced from one of the local's other bank accounts.
  - d. Prepare a liquid assets list which shows the ending balances for each of your local's bank accounts.
  - e. Determine that all withdrawals from your local's savings, money market, or certificate of deposit accounts during the audit period were used for legitimate union purposes as approved by your membership
  - f. Make an inventory of gift cards held by the local including card value and date of purchase.
  
6. Inventory fixed assets.
  - a. Determine if your local prepared an inventory of fixed assets prior to your audit period and, if so, verify the existence of all items on the list. This could be laptop computers, office equipment etc.

**Reporting Findings** Your local's members probably want to know what the general financial condition of your organization is, whether your audit disclosed any problems and, if so, how they were resolved.

You may want to review the sample audit report below which can be modified to better suit your situation.

Completion of the 6-step audit allows you to make some broad statements about the financial books and records of your local. For example, if no significant problems for the audit period were uncovered, you can say your audit indicates:

- The local's disbursements were accurately reflected in the records and made for legitimate purposes.
- The local's receipts were accurately reflected in the records and deposited to your local's bank accounts.
- The local's payment of dues to OEA were properly credited.
- The local's assets were properly accounted for.
- The local appears to be using good internal financial controls to safeguard its assets.
- The local appears to be complying with the financial practices and procedures of your parent body.

The committee should make a list of any internal financial control weaknesses (for example, officers signing blank checks) or "problem areas" (for example, late or incomplete payment of dues to OEA, failure to timely reconcile membership records, failure to record receipts and disbursements on voucher forms, etc.) and recommendations for improvements.

Here is an example of a completed audit report that can be used as a model for your local.

Completed Audit Report

Anytown Education Association

Period: 9/1/19 - 8/31/20

On 2/3/20 the undersigned members completed an examination of the books and records and certify that to the best of our knowledge the information in this report is true and correct:

#### Primary Findings

1. Disbursements were accurately reflected in the union's records and issued for legitimate purposes.
2. Receipts were accurately reflected in the union's records and deposited to the union's bank accounts.
3. Assets (cash and equipment) were properly accounted for.
4. The union appears to have sound financial records with the following exceptions:
  - a. Payroll dues deduction statements from the district for the period were not initially available. Copies were obtained from the employer and the Treasurer has promised to retain future copies received.
  - a. The bank statement and cancelled checks for October 2019 were not available. Copies were obtained from the bank and placed with other records.
  - a. Original bills for the retirement dinner were not retained. The Treasurer said he will tell the committee chairman to keep and turn over all retirement dinner bills next year.
5. The union appears to be using good internal financial controls with the following exception:
  - a. The President has been pre-signing checks. He has agreed to sign them only after they have been fully completed.
6. The union appears to be complying with the financial practices and procedures of our parent body with the following exceptions:
  - a. Dues transmittal payments to OEA were usually submitted 1-2 months late. The Treasurer has promised to submit them on time in the future.
  - b. We have not been using all the forms (receipts, vouchers, journals) required by our parent body. New forms have been ordered and will be used in the future.

#### Financial Condition Statement

Cash Balance (Last Audit Report) \$5,004.29  
Plus: Total Receipts \$8,125.25  
Less: Total Disbursements \$7,740.93  
Cash Balance (This Audit Report) \$5,388.61  
Members at End of Period 201

Attachments 1. Fixed Assets Inventory 2. Ending Bank Balance Reconciliation Worksheet

#### Signatures

John Smith 2/8/20  
Mary Brown 2/8/20  
Edna Miller 2/8/20

This audit procedure was adopted for use by OEA locals from the document "Conducting Audits in Small Unions: A Guide for Trustees to a 10-Step Audit" published by the Office of Labor Management Standards (OLMS) of the US Department of Labor. The document may be found here: [https://www.dol.gov/olms/regs/compliance/comp\\_pubs/smallunions\\_2017.pdf](https://www.dol.gov/olms/regs/compliance/comp_pubs/smallunions_2017.pdf) and may provide some additional insight for your audit committee. Bear in mind that steps 7-10 are to ensure compliance with the Labor-Management Reporting and Disclosure Act of 1959 which does not cover local school district unions so you should use the guidance accordingly.

# Licensure Code of Professional Conduct for Ohio Educators



# Licensure Code of Professional Conduct for Ohio Educators

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## Introduction

Educators are entrusted by the public with the responsibility of providing a high-quality education to each student. Through various roles, these professionals devote themselves to providing a safe and nurturing environment in which all students can learn. In alignment with the Standards for Ohio Educators and Ohio's Learning Standards, Ohio's educators strive for excellence through the high expectations they hold for themselves and their students. The professional conduct of every educator affects attitudes toward the profession. Educators are trustees of the profession and share with the broader community the responsibility of providing high-quality public education. Educators recognize the need to balance the demands of the profession by caring for their own physical and emotional well-being in order to successfully carry out their professional responsibilities.

Aware of the importance of maintaining the confidence and trust of students, parents, colleagues and the public, Ohio educators maintain the highest degree of professional conduct for themselves and their peers. Ohio educators are all individuals applying for a credential or individuals credentialed by the State Board of Education, and the Licensure Code of Professional Conduct for Ohio Educators serves as the basis for decisions on issues pertaining to licensure that are consistent with applicable law. It provides a guide for conduct in situations that have professional implications for all individuals, such as teachers, principals, superintendents, educational aides, coaches, substitute teachers and others credentialed by the State Board of Education.

Ohio is nationally known as a state that produces high-quality educators and recognizes that its 250,000 practicing educators hold the fundamental beliefs defined in the following nine principles:

1. Educators behave in a professional manner, realizing that one's actions reflect directly on the status and substance of the profession.
2. Educators maintain a professional relationship with all students at all times, both in and out of the classroom.
3. Educators accurately report information required by the local board of education or governing board, state education agency, federal agency or state or federal law.
4. Educators adhere to federal, state and local laws and statutes regarding criminal activity.
5. Educators comply with state and federal laws related to maintaining confidential information.
6. Educators serve as positive role models and do not use, possess or unlawfully distribute illegal or unauthorized drugs.
7. Educators ensure school property, public funds or fees paid by students or the community are used in the best interest of students and not for personal gain.
8. Educators fulfill all the terms and obligations in their employment contracts.
9. Educators use technology in a responsible manner and safeguard the electronic devices and data entrusted to them.

As education is a public trust, the Ohio Department of Education pursues allegations of unprofessional conduct. The Department recognizes that an accusation of misconduct is not conclusive proof that the educator engaged in conduct unbecoming. By law, educators are entitled to all due process rights, with each circumstance considered on a case-by-case basis to determine appropriate action. Not all referrals or investigations result in disciplinary action. The Licensure Code of Professional Conduct for Ohio Educators includes the presumptive range of applicable disciplinary actions involving any individual credentialed by the State Board of Education.



# 1. Professional Behavior

Educators shall behave as professionals, realizing their actions directly reflect on the status and substance of the education profession.

***An educator serves as a positive role model to both students and adults and is responsible for preserving the dignity and integrity of the teaching profession and for practicing the profession according to the highest ethical standards.***

**Conduct unbecoming** to the profession includes, but is not limited to, the following actions:

- a) Failing to adhere to the Licensure Code of Professional Conduct for Ohio Educators.
- b) Assisting another in committing an act of conduct unbecoming, as described in the Licensure Code of Professional Conduct for Ohio Educators.
- c) Having a continuing physical or mental inability, incapacity or addiction that significantly impacts the educator's ability to carry out his or her professional responsibilities and renders the educator incapable of safely maintaining the care, custody and control of students.
- d) Committing any violation of state or federal laws, statutes or rules although the conduct may not have resulted in a criminal charge, indictment, prosecution or conviction. (Except as noted in Principle 6(b), this does not include traffic violations.)
- e) Disparaging a colleague, peer, or other school personnel while working in a professional setting (teaching, coaching, supervising or conferencing) on the basis of race or ethnicity, socioeconomic status, gender, national origin, sexual orientation, political or religious affiliation, physical characteristics, age, disability or English language proficiency.
- f) Harassing, intimidating, or retaliating against a colleague, peer, or other school personnel.
- g) Sexually harassing any student, minor or adult in the school community.
- h) Failing to complete a criminal background check, as required by state or federal law.
- i) Violating local, state or federal procedures related to the security of standardized tests, test supplies or resources.
- j) Negligently failing to verify, prior to hiring, recommending for employment, or issuing payment, except as permitted by law, that an educator possesses the appropriate credential type for the educator's position (for example, the appropriate credential type means a teacher must possess a teaching credential, principal a principal credential, superintendent a superintendent credential, etc.).
- k) Accepting or holding employment that requires the educator to engage in activities or duties outside the scope of the educator's credential type.
- l) Being disciplined by another state educational entity or other professional licensing board or entity for unethical conduct.
- m) Committing an act of academic dishonesty (for example, plagiarism, falsification, fabrication, sabotage, or cheating in an academic setting).
- n) Engaging in nepotism, as prohibited by local, state, or federal law.

*The disciplinary actions for violations of Principle 1 can be found on [page 13](#).*

## 2. Professional Relationships with Students

Educators shall maintain a professional relationship with all students at all times, both in and out of the classroom.

***An educator's responsibility includes nurturing the intellectual, physical, emotional, social and civic potential of all students and providing a safe environment free from harassment, intimidation and criminal activity. An educator creates, supports and maintains an appropriate learning environment for all students and fulfills the roles of trusted confidant, mentor and advocate for students' rights while maintaining appropriate professional, emotional and social boundaries. An educator must serve as a champion against child abuse and be cognizant of student behaviors that suggest abuse or neglect.***

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Committing any act of sexual abuse of a student or minor or engaging in inappropriate sexual conduct with a student or minor.
- b) Committing an act of cruelty to children or an act of child endangerment (for example, physical, psychological, or emotional abuse).
- c) Soliciting, encouraging, engaging or consummating an inappropriate relationship with any student, minor, or individual who was a student in the preceding twelve months.
- d) Engaging in grooming a student or minor (befriending and establishing an emotional connection with a student or minor or a student's or minor's family to lower the student's or minor's inhibitions for the purpose of an inappropriate emotional, romantic or sexual relationship).
- e) Disparaging a student on the basis of race or ethnicity, socioeconomic status, gender, national origin, sexual orientation, political or religious affiliation, physical characteristics, academic or athletic performance, disability or English language proficiency.
- f) Using inappropriate language, gestures or signs at any school-related activity (such as racial slurs, or biased, lewd or lascivious expressions).
- g) Provoking an altercation with or between students or engaging in a physical altercation with students that is not for the purpose of ensuring the health, safety, and welfare of students.
- h) Failing to provide appropriate supervision of students, within the scope of the educator's official capacity, which risks the health, safety and welfare of students or others in the school community.
- i) Knowingly contributing to or failing to intervene in the harassment, intimidation, or bullying of a student.

*The disciplinary actions for violations of Principle 2 can be found on [page 13](#).*

### 3. Accurate Reporting

Educators shall accurately report information required by the local board of education or governing board, state education agency, federal agency or state or federal law.

***An educator communicates appropriate representation of facts concerning qualifications for professional practice, student information, school board policy and other educational matters. An educator must notify the superintendent or designee, of any conduct by a licensed educator that substantially impairs his or her ability to function professionally or is detrimental to the health, safety and welfare of students. It is not considered conduct unbecoming for an educator to, in good faith, notify a superintendent as required by this principle and said educator shall not be the subject of retaliation.***

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Falsifying, intentionally misrepresenting, willfully omitting or being negligent in reporting information submitted to federal, state and other governmental agencies including, but not limited to, staff, student, district, and financial data and information submitted in the course of an official inquiry or investigation.
- b) Falsifying, intentionally misrepresenting, willfully omitting or being negligent in reporting professional qualifications, criminal history, discipline of a professional license or credential, college or professional development credit and/or degrees, academic awards and employment history when applying for employment and/or licensure or when recommending an individual for employment, promotion or licensure.
- c) Falsifying, intentionally misrepresenting, willfully omitting or being negligent in reporting reasons for absences or leaves.
- d) Falsifying, intentionally misrepresenting, willfully omitting or being negligent in reporting information regarding the evaluation of students and/or personnel.
- e) Knowingly failing to notify the superintendent or designee upon becoming aware that an educator's ability to function in his or her position has been substantially impaired or of any conduct that is detrimental to the health, safety and welfare of students.
- f) Intentionally failing to make a mandated report of any violation of state or federal law.
- g) Directing, instructing, assisting or requesting another to commit an act described in Principle 3 of the Licensure Code of Professional Conduct for Ohio Educators.

*The disciplinary actions for violations of Principle 3 can be found on [page 13](#).*

## 4. Criminal Acts

Educators shall adhere to federal, state and local laws and statutes.

***An educator shall not engage in criminal activity as evidenced by a criminal conviction, guilty plea, finding of guilt, or participation in a court-ordered diversion or treatment in lieu of conviction program.***

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) A criminal offense that is an offense of violence, theft, drug abuse, or sexually-oriented offense as defined in Ohio Administrative Rule 3301-20-01 (for example, murder, rape, drug trafficking, kidnapping, robbery, felonious assault).
- b) A criminal offense that requires an educator to meet the rehabilitation standards, as defined in Ohio Administrative Code Rule 3301-20-01 (for example, assault, passing bad checks, fraud, domestic violence, possession of drugs).
- c) Conveying or possessing a deadly weapon or dangerous ordnance in a school safety zone, on school premises or at a school-related activity, unless authorized by state or federal law.
- d) A criminal offense that is not identified as an absolute bar offense or offense requiring rehabilitation pursuant to Ohio Administrative Code Rule 3301-20-01 and the offense involves a student, minor, school district, or school personnel.
- e) A criminal offense that is not identified as an absolute bar offense or offense requiring rehabilitation pursuant to Ohio Administrative Code Rule 3301-20-01 and the offense does not involve a student, minor, school district, or school personnel. (Except as noted in Principle 6(b), this does not include traffic violations.)

*The disciplinary actions for violations of Principle 4 can be found on [page 14](#).*

## 5. Confidentiality

Educators shall comply with local, state and federal laws related to maintaining confidential information.

*An educator is entrusted with information that could be misused to embarrass or damage a student's reputation or relationship with others. Therefore, the educator has the responsibility to keep information about students confidential unless disclosure serves professional purposes, affects the health, safety, and welfare of students and others, is required by law, or parental permission has been given. An educator maintains the security of confidential information, such as academic and disciplinary records, testing materials, personal confidences, photographs, health and medical information, family status and/or income.*

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Willfully or knowingly violating any student confidentiality required by federal or state laws, including publishing, providing access to, or altering confidential student information on district or public websites, such as grades, personal information, photographs, disciplinary actions, or individualized educational programs (IEPs) without parental consent or consent of students 18 years of age and older.
- b) Using confidential student, family, or school-related information in a non-professional way (for example, gossip, malicious talk or disparagement).
- c) Violating local, state, or federal procedures or laws related to the confidentiality of standardized tests, test supplies, or resources.

*The disciplinary actions for violations of Principle 5 can be found on [page 14](#).*

## 6. Use, Possession, or Unlawful Distribution of Alcohol, Drugs and Tobacco

Educators shall not use, possess or unlawfully distribute illegal or unauthorized drugs. Educators shall not use alcohol during any school activity involving students, minors or underage persons. Educators shall not use tobacco during any school activity except in designated areas. Educators shall not furnish, provide or encourage students or underage persons to use, possess or unlawfully distribute alcohol, tobacco, or illegal or unauthorized drugs.

*As a positive role model, an educator is entrusted with protecting the health, safety, and welfare of students at any school event. The use of alcohol or illegal or unauthorized drugs causes impairment of professional judgment that may potentially harm others. A professional educator must refrain from the illegal use of tobacco on any school grounds or at any school activity.*

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Being under the influence of, possessing, using or consuming illegal or unauthorized drugs.
- b) Engaging in habitual or excessive abuse of alcohol, as demonstrated by two or more alcohol-related convictions within a five-year span or a severe alcohol-related conviction (for example, a high blood alcohol content, significant injury or property damage, or incidents involving minors).
- c) Being on school premises in an official capacity (for example, teaching, coaching, supervising, or conferencing) or at any school activity involving students, minors or underage persons while under the influence, possessing, or consuming alcoholic beverages.
- d) Furnishing or providing tobacco, alcohol or illegal or unauthorized drugs to any student, minor, or underage person.
- e) Being on school premises or at any school activity involving students, minors or underage persons while using tobacco except in a designated area.
- f) Promoting the use of steroids, stimulants, or nutritional supplements to accelerate physical growth or contribute to the control of weight loss or weight gain to enhance physical performance.

*The disciplinary actions for violations of Principle 6 can be found on [page 14](#).*

## 7. Financial Management and Improper Compensation for Personal Gain

Educators shall ensure all school funds and accounts are managed in a responsible and transparent manner. Educators shall ensure school property, public funds or fees paid by students or the community are not used for personal gain. Educators shall not make decisions based upon gifts, gratuities, favors or the socioeconomic status of parents, family members, community members or businesses.

***An educator is entrusted with public funds and school property in the course of performing job duties and maintains a high level of honesty, accuracy and accountability to ensure institutional privileges are not used for personal gain. An educator maintains integrity with students, colleagues, parents, families, the community or businesses when accepting gifts, gratuities, or favors. To avoid bias or prejudice, an educator needs to ensure decisions made about students or school policy are not negatively influenced by the socioeconomic status of parents, family members, community members or businesses.***

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Using public school property or public funds for personal use not in accordance with local, state or federal laws.
- b) Soliciting students or parents of students to purchase equipment, supplies, or services or to participate in activities that financially benefit the educator without notifying the superintendent or designee and/or not in accordance with local board policy.
- c) Accepting gifts from vendors or potential vendors for personal use or gain exceeding \$25 in value.
- d) Tutoring students in one's district for profit without notifying the superintendent or designee and/or not in accordance with local board policy.
- e) Coaching and/or promoting athletic or artistic camps, off-season leagues, etc., in one's district for profit without notifying the superintendent or designee and/or not in accordance with local board policy.
- f) Failing to transparently and responsibly account for and manage any and all school-related funds in accordance with local board policies and local, state, or federal laws, including rules, opinions, and bulletins promulgated by the Ohio Auditor of State or the Ohio Ethics Commission.
- g) Failing to account for funds related to school activities collected from students, parents, family members, community members, staff or peers in accordance with local board policy.
- h) Co-mingling public or school-related funds with personal funds or checking accounts.
- i) Submitting fraudulent requests for reimbursement of expenses.
- j) Failing to pay a finding for recovery issued by the Ohio Auditor of State.

*The disciplinary actions for violations of Principle 7 can be found on [page 14](#).*

## 8. Commitment to Contract

Educators shall fulfill all of the terms and obligations detailed in their employment contract with the local board of education, public educational agency, or community school for the duration of the contract.

*An educator knows and understands the rights and responsibilities as outlined in the employment contract and adheres to the terms and conditions of the agreement by fulfilling responsibilities and duties required of the position.*

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Abandoning the contractual agreement for professional services without the consent of the board of education or designee, according to Ohio Revised Code 3319.15, or without the consent of the community school's governing authority or operator, according to Ohio Revised Code 3314.103.
- b) Willfully refusing to perform services and duties required by the contract, except as outlined in Ohio Revised Code Chapter 4117.
- c) Violating or interfering with due process as outlined in the contractual agreement.

*The disciplinary actions for violations of Principle 8 can be found on [page 15](#).*



## 9. Appropriate and Responsible Use of Technology

Educators shall always use technology, electronic communications, and social media in a responsible and professional manner and appropriately safeguard the unauthorized use or access to electronic devices and data entrusted to them.

***An educator responsibly creates, uses, consumes, distributes, and protects information and data across all technologies. Educators shall maintain appropriate boundaries with colleagues, students, and the school community when using technology and electronic communications. While maintaining their constitutional rights, educators recognize that when using technology, the words they choose and the content of their statements can reflect negatively on their positions, schools, and the profession.***

**Conduct unbecoming** includes, but is not limited to, the following actions:

- a) Negligently failing to prevent others from unauthorized use of professional electronic devices to access improper or inappropriate material or confidential data.
- b) Negligently failing to prevent students from unauthorized use of the educator's personal electronic devices to access improper or inappropriate material or confidential data.
- c) Accessing inappropriate, non-school-related material on a school-owned device not in accordance with local board policy.
- d) Presenting inappropriate, non-school-related media to students.
- e) Using technology, social media, or other electronic communications to promote inappropriate communications with students (for example, excessively, for non-educational purposes or requesting students or minors to conceal communication).
- f) Knowingly failing to report and/or address instances of electronic or online harassment, bullying, or intimidation of a student.
- g) Knowingly failing to appropriately intervene when made aware of inappropriate or illegal images or material involving students or minors in electronic forms.
- h) Using technology, social media or other electronic communications to host, post, or distribute improper or inappropriate material that could reasonably be accessed by the school community (includes, but is not limited to, pornography, obscene material, promotion of drug use or underage consumption of alcohol, promotion of violence, disparagement of students, and disparagement based upon gender, gender identity, race, sex, ethnicity, sexual orientation, disability, military status, or religion).
- i) Using school technology to run, manage, or promote a personal business venture.

The disciplinary actions for violations of Principle 9 can be found on [page 15](#).

# Disciplinary Procedure

## DUE PROCESS

The State Board of Education has the authority to suspend, limit, revoke or deny licenses; issue a letter of admonishment; or enter into a consent agreement with an applicant or licensed educator to administer the educator discipline process in accordance with Chapter 33 and Chapter 119 of the Ohio Revised Code and Chapter 3301 of the Ohio Administrative Code.

When an educator is reported to the Ohio Department of Education for an allegation of unprofessional conduct made by a principal, parent, teacher, student, superintendent or community member, the Department will determine whether the State Board of Education has jurisdiction to investigate the matter pursuant to Section 3319.311 of the Ohio Revised Code.

If it is determined an investigation is warranted, a thorough investigation would be conducted pursuant to Section 3319.311 of the Ohio Revised Code at which time **all mitigating circumstances will be fully examined to determine whether the allegation can be substantiated**. If an allegation is reported and turns out to be a false allegation or unsubstantiated, all information obtained in the case file will be sealed two years after the investigation is concluded in accordance with Section 3319.311 of the Ohio Revised Code.

If the results of an investigation warrant initiating an action under Section 3319.31 of the Ohio Revised Code, **an educator is entitled to all due process rights** afforded pursuant to Chapter 33 and Chapter 119 of the Ohio Revised Code and Chapter 3301 of the Ohio Administrative Code.

## DISCIPLINARY GUIDELINES

Upon a determination that the results of an investigation warrant the State Board of Education to impose a disciplinary action pursuant to Section 3319.31 of the Ohio Revised Code, the State Board may impose an appropriate penalty within the presumptive range on a **case-by-case basis**, as set forth in these disciplinary guidelines, unless the aggravating and mitigating factors in an individual case warrant a penalty outside the presumptive range.

The range of disciplinary actions are presumptions and may include a letter of admonishment, consent agreement, limitation of a license, suspension of a license, revocation of a license, or denial of a license. The terms "suspension," "revocation," and "denial" shall mean any length of suspension, revocation or denial, including permanent revocation or permanent denial. A license may be suspended or limited pursuant to a consent agreement or State Board resolution. A complete explanation of the types of disciplinary actions can be accessed on the Ohio Department of Education's website, [education.ohio.gov](http://education.ohio.gov), search keywords *disciplinary actions*.

The State Board may determine that a penalty outside the range of the disciplinary guidelines is more appropriate in an individual case based upon aggravating and mitigating factors as outlined in Sections 3301-73-21 (A) (B) and Section 3301-20-01 (E) of the Ohio Administrative Code, or any other factors the State Board, district or educational entity, or superintendent consider relevant. Further, the State Board may determine not to impose a disciplinary action involving an educator's licensure or application for licensure based upon conduct being a minor violation or a local school district or educational entity appropriately addressing the violation of the Licensure Code of Professional Conduct for Ohio Educators at the district or building level.

**The Licensure Code of Professional Conduct for Ohio Educators applies to all individuals licensed by the Ohio Department of Education.** The presumptive ranges are only applicable for disciplinary actions involving an educator's licensure or application for licensure. The presumptive ranges are not applicable for any discipline imposed at the local level. Possible discipline at the local level must follow all local contractual provisions including, but not limited to, due process, progressive discipline, and just cause. However, an educator who violates one or more of the principles may be subject to discipline at both the state and local levels.

Following are the disciplinary actions, including a presumptive range of penalties that shall apply to violations of the *Licensure Code of Professional Conduct for Ohio Educators*.

# DISCIPLINARY ACTIONS

## 1. Professional Behavior

**Educators shall behave as professionals realizing that their actions directly reflect on the status and substance of the education profession.**

**If an educator violates Principle 1**, the presumption for the appropriate range of disciplinary action is the following:

- I. Suspension (one day to one year) of a license depending upon the violation of the testing procedure;
- II. Suspension of a license until the educator comes into compliance with the required background checks;
- III. Letter of admonishment up to revocation/denial of a license for other acts unbecoming to the professional conduct of educators.

## 2. Professional Relationships with Students

**Educators shall maintain a professional relationship with all students at all times, both in and out of the classroom.**

**If an educator violates Principle 2**, the presumption for the appropriate range of disciplinary action is the following:

- I. Revocation/denial of a license for sexual/physical abuse;
- II. Suspension (one day to five years) of a license up to revocation/denial of a license for psychological or emotional abuse or for soliciting, encouraging, engaging or consummating an inappropriate written, verbal, psychological, emotional or physical relationship with a student or minor;
- III. Suspension (one day to five years) of a license for disparagement, inappropriate language, physical altercations, inappropriate supervision or harassment.

## 3. Accurate Reporting

**Educators shall accurately report information required by the local board of education or governing board, state education agency, federal agency or state or federal law.**

**If an educator violates Principle 3**, the presumption for the appropriate range of disciplinary action is the following:

- I. Suspension (one day to three years) of a license for falsifying, intentionally misrepresenting, willfully omitting, or being negligent in reporting criminal history, discipline of a professional license or credential, academic awards or employment history;
- II. Suspension (three years to five years) of a license up to revocation/denial of a license for falsifying, intentionally misrepresenting, willfully omitting, or being negligent in reporting professional qualifications, or college or professional development credit and/or degrees;
- III. Suspension (one day to five years) of a license for all other violations of this principle.

## 4. Criminal Acts

**Educators shall adhere to federal, state and local laws and statutes.**

**If an educator violates Principle 4**, the presumption for the appropriate range of disciplinary action is the following:

- I. Revocation/denial of a license for a criminal offense that is an offense of violence, theft offense, drug abuse offense or sexually oriented offense, as defined in Ohio Administrative Code Rule 3301-20-01;
- II. Revocation/denial of a license for a criminal offense involving the school community or where the victim is a student or minor;
- III. Suspension (one day to five years) of a license up to revocation/denial of a license for all other felony criminal acts;
- IV. Letter of admonishment up to revocation/denial of a license for all other misdemeanor criminal acts (for example, disorderly conduct, trespassing, assault, passing bad checks, fraud, domestic violence, possession of drugs).

## 5. Confidentiality

**Educators shall comply with local, state and federal laws related to maintaining confidential information.**

**If an educator violates Principle 5**, the presumption for the appropriate range of disciplinary action is suspension (one day to two years) of a license.

## 6. Use, Possession, or Unlawful Distribution of Alcohol, Drugs and Tobacco

**Educators shall not use, possess or unlawfully distribute illegal or unauthorized drugs. Educators shall not use alcohol during any school activity involving students, minors or underage persons. Educators shall not use tobacco during any school activity except in designated areas. Educators shall not furnish, provide or encourage students or underage persons to use, possess or unlawfully distribute alcohol, tobacco, or illegal or unauthorized drugs**

**If an educator violates Principle 6**, the presumption for the appropriate range of disciplinary action is the following:

- I. Suspension (one year to five years) of a license up to revocation/denial of a license for violations dealing with students, minors, or underage persons or school activities;
- II. Suspension (one day to five years) of a license for misuses unrelated to students, minors, or underage persons or school activities.

## **7. Financial Management and Improper Compensation for Personal Gain**

**Educators shall ensure all school funds and accounts are managed in a responsible and transparent manner. Educators shall ensure school property, public funds or fees paid by students or the community are not used for personal gain. Educators shall not make decisions based upon gifts, gratuities, favors or the socioeconomic status of parents, family members, community members or businesses.**

**If an educator violates Principle 7**, the presumption for the appropriate range of disciplinary action is the following:

- I. Suspension (two years to five years) up to revocation/denial of a license for theft of school property or school funds;
- II. Letter of admonishment up to suspension (one day to one year) of a license for using one's position for personal gain;
- III. Suspension (one day to five years) up to revocation/denial of a license for all other violations of this principle.

## **8. Commitment to Contract**

**Educators shall fulfill all of the terms and obligations detailed in their employment contract with the local board of education, public educational agency, or community school for the duration of the contract.**

**If an educator violates Principle 8**, the presumption for the appropriate range of disciplinary action is a letter of admonishment up to suspension (one day to one year) of a license.

## **9. Appropriate and Responsible Use of Technology**

**Educators shall always use technology, electronic communications, and social media in a responsible and professional manner and appropriately safeguard the unauthorized use or access to electronic devices and data entrusted to them.**

**If an educator violates Principle 9**, the presumption for the appropriate range of disciplinary action is the following:

- I. Letter of admonishment up to suspension (one day to five years) of a license for negligence in failing to prevent others from unauthorized access of professional devices and students from unauthorized access of personal devices; accessing inappropriate, non-school-related material on school-owned devices; and use of school technology to run, manage, or promote a personal business;
- II. Suspension (one day to five years) of a license up to revocation/denial of a license for presenting inappropriate, non-school-related media to students and for violations involving the use of technology to host, post, or distribute inappropriate material;
- III. Suspension (one year to five years) of a license up to revocation/denial of a license for violations involving use of technology for promoting and/or engaging in inappropriate communication with students;
- IV. Suspension (one day to five years) of a license for failing to report or address instances of electronic or online harassment, bullying, or intimidation of a student, or failing to appropriately intervene when made aware of inappropriate or illegal materials involving students or minors appearing in electronic form.

OHIO EDUCATION ASSOCIATION

MODEL CONSTITUTION and BYLAWS  
for  
LOCAL ASSOCIATIONS

Revised March 2023

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# MODEL CONSTITUTION AND BYLAWS

## FOR LOCAL ASSOCIATIONS

**GUIDELINES:** The Model Constitution and Bylaws provides local associations with examples of language for local C&B that comply with the requirements of the OEA, the NEA, and state and federal law.

Model language is followed by explanation and commentary *[in brackets and italicized]* as to why model language is suggested or required. The language contained in brackets does not need to be included in the submitted document.

Completing the OEA Standards for Affiliation Test Form Appendix B on pages 43 and 44 prior to submission to OEA will assist the local in meeting the OEA Bylaw 9-2 Standards for Affiliation. Instructions for the form are on page 45.

In many sections of this model references are made to the State Employment Relations Board (SERB) which is applicable only to the public sector and the National Labor Relations Board (NLRB) which is applicable only to the private sector. Update the local Constitution and Bylaws as is appropriate to the local's circumstances.

**When ready to forward to OEA, include the local's C&B, completed standards test and submission form (which is located on the last page of this manual.) Additionally include the revision date of the document. Prior to the required five-year review date, any local C&B that is amended must be updated and then submitted to OEA with the above mentioned forms.**

**If you have questions or concerns please contact the Legal Department by e-mail: [candb@ohea.org](mailto:candb@ohea.org). Or by telephone: toll free at (800) 282-1500 extension 3042 or locally at 362-0646 extension 3042.**

Electronic copies of the Model C&B are located:

- OEA Staff may find the document on the OEA Intranet ► Legal Services ► Constitution and Bylaws
- Log onto OEA's web site at [www.ohea.org](http://www.ohea.org) ► Members Center ► Members Only ► Additional OEA Resource Links ► OEA Model Constitutions and Bylaws.

**NOTE: Any and all proposed changes to the local Constitution and Bylaws (C&B) not yet adopted in accordance with the local C&B are not effective.**

# MODEL LANGUAGE – CONSTITUTION

## ARTICLE 1. NAME

**Section A.** The name of this organization shall be the \_\_\_\_\_

*[Please state the official name of the local association.]*

**Section B.** The (Name of This Organization), henceforth referred to as the Association, shall maintain affiliation with the Ohio Education Association, the National Education Association, and the \_\_\_\_\_ (OEA District Association, see official names below.)

### **Official District Association Names:**

CAPITAL DISTRICT, INCORPORATED

CENTRAL OEA/NEA

EAST CENTRAL OHIO EDUCATION ASSOCIATION (ECOEA)

EASTERN OHIO EDUCATION ASSOCIATION (EOEA)

NORTH CENTRAL OHIO EDUCATION ASSOCIATION (NCOEA)

NORTH EASTERN OHIO EDUCATION ASSOCIATION (NEOEA)

NORTHWESTERN OHIO EDUCATION ASSOCIATION (NWOEA)

SOUTHEASTERN OHIO EDUCATION ASSOCIATION (SEOEA)

SOUTHWESTERN OHIO EDUCATION ASSOCIATION (SWOEA)

WESTERN OHIO EDUCATION ASSOCIATION (WOEA)

*[Section 9-2(a) of the OEA Bylaws requires as a condition of affiliation with the OEA, that the local association maintains affiliation with the district, state, and national associations.]*

## ARTICLE II. PURPOSE

**Section A.** The purpose of the Association shall be to:

1. Help set and promote the educational objectives of the local school system and of the state and of the nation;
2. Protect the welfare and advance the professional interests of its members;
3. Foster professional attitudes;
4. Establish and maintain helpful, friendly relationships within the membership and school community.

*[The purpose should establish the reason for which the local association has been created. Purposes should be stated broadly, not narrowly. The purposes of the organization help guide elected officers of the local association in the performance of their duties.]*

### ARTICLE III. MEMBERSHIP

**Section A.** (All certified, and/or all education support) professionals employed by the \_\_\_\_\_ Board of Education, except those classified as administration, shall be eligible for active membership.

*[The local must define who is eligible to be a member of the local association. THIS INFORMATION MAY BE FOUND IN THE COLLECTIVE BARGAINING AGREEMENT (CBA) IN THE RECOGNITION CLAUSE. THE SCOPE OF MEMBERSHIP CAN BE GREATER THAN THE SCOPE OF THE BARGAINING UNIT, AS DEFINED BY THE COLLECTIVE BARGAINING UNIT, BUT THE MEMBERSHIP BODY SHOULD NEVER BE DEFINED TO BE SMALLER THAN THE BARGAINING UNIT.]*

**Section B.** Active members shall be members of the \_\_\_\_\_ (local), the \_\_\_\_\_ (OEA district), the Ohio Education Association, and the National Education Association.

*[Section 9-2(a) of the OEA Bylaws require that local association members hold unified membership. A person cannot be a member of a local association without also being a member of her/his OEA district, state, and national associations.]*

**Section C.** All members shall abide by the Code of Ethics of the Education Profession.

*[This sample language is required by Section 9-2(c) of the OEA Bylaws.]*

*[The NEA Code of Ethics can be found in the Appendix D of this Model C&B.]*

## ARTICLE IV. OFFICERS

*[Every association needs people to run day-to-day business. There are various schemes to accomplish this. The model provides three examples. Choose one of the following options or develop a similar structure. Most associations elect officers every year or every other year. The only restriction by law is that local association officers stand for election every three (3) years. Terms of office and start date of office are required by Section 9-2(b) of the OEA Bylaws to have a Constitution consistent with the terms of the OEA.]*

### Option 1

**Section A.** The Officers of the Association shall be the President, Vice President, Secretary, and Treasurer.

**Section B.** All Officers shall hold office for a one-year term, beginning \_\_\_\_\_.  
*[Define the start date the officer(s) assume(s) office, e.g., newly elected officers shall be installed and assume these offices at the last meeting of the school year, or on September 1 of the year elected. Officers should be installed at this time to ensure that adequate time is provided for a smooth transition.]*

### Option 2

**Section A.** The Officers of the Association shall be the President, Vice President, Secretary, and Treasurer.

**Section B.** All Officers shall hold office for a two-year term, beginning \_\_\_\_\_. The President and Secretary shall be elected in odd years. The Vice President and Treasurer shall be elected in even years.

### Option 3

**Section A.** The Officers of the Association shall be President, President-Elect, Immediate Past President, Secretary, and Treasurer.

**Section B.** The Officers shall hold office for a one-year term, beginning \_\_\_\_\_.

**[NOTE:** *If the C&B lists qualifications for officers, e.g., that all elected officers shall have been active members of the Association for at least \_\_\_ year(s) immediately preceding the election, the U.S. Department of Labor's Code of Federal Regulations, Section 452.40 states that "[a] requirement that candidates for office have some prior service in a lower office is not considered reasonable." Therefore, it is not reasonable to require that an officer of the Association must have been a member of the Board of Directors/Executive Committee for two years. However, it is reasonable to require that the officer should be an active member of the Association for not less than a period of two years.]*

**Section C. Choose one of the following options for Successions and Vacancies:**

**Option 1**

Whenever the office of President becomes vacant due to death, incapacity, termination, resignation, retirement or recall, the Vice President shall automatically assume the presidency for the remaining part of the term.

A vacancy in the office of Vice President, Secretary or Treasurer shall be filled for the remainder of the term by majority vote of the Board of Directors/Executive Committee.

**Option 2**

Whenever the office of President becomes vacant due to death, incapacity, termination, resignation, retirement or recall, the Vice President shall automatically assume the presidency for the remaining part of the term.

A vacancy in the office of Vice President shall be filled by a candidate with the most votes received in descending order in the last general election; if all candidates decline the office, or if there were no candidates, the office will be filled by a special general election.

Whenever the offices of both President and Vice President become vacant, the remaining members of the Board of Directors/Executive Committee shall choose one of their number to serve as President Pro Tempore until a special election by the membership is conducted. In such case the Elections Committee shall provide a slate of candidates for both offices.

A vacancy in the office of Secretary or Treasurer shall be filled for the remainder of the term by majority vote of the Board of Directors/Executive Committee.

**Option 3**

Whenever the office of President becomes vacant due to death, incapacity, termination, resignation, retirement or recall, the Vice President shall automatically assume the presidency for the remaining part of the term.

A vacancy in the office of Vice President, Secretary or Treasurer shall be filled by an appointment of the President with the approval of two-thirds of a quorum of the Board of Directors/Executive Committee in a secret ballot.

#### **Option 4**

A vacancy in the office of President due to death, incapacity, termination, resignation, retirement or recall shall be filled by the Vice President who shall complete the unexpired term.

In the event a vacancy occurs in the office of both the President and Vice President, the vacancy shall be filled by election of the general membership in accordance with the OEA Elections Manual.

A vacancy in the office of Vice President, Secretary or Treasurer shall be filled by election of the general membership in accordance with the OEA Elections Manual.

*[Guidelines for filling officer vacancies are necessary to ensure continual leadership and to comply with Section 9-2(f) of the OEA Bylaws.]*

## ARTICLE V. BOARD OF DIRECTORS / EXECUTIVE COMMITTEE

**Section A.** The Board of Directors/Executive Committee shall be composed of the elected officers of the Association and association representatives.

*[The members of the Board of Directors/Executive Committee must be defined. All members of the Board of Directors/Executive Committee must be elected.]*

**Section B.** The Board of Directors/Executive Committee shall:

1. Act as advisors to the officers, assign duties, be responsible for all committees of the Association, and have such policy-making authority as provided in this C&B.
2. Act as the authoritative voice of the Association on positions affecting the Association during the interim period between regular meetings.
3. Prepare recommendations for the consideration and action of the Association.
4. Carry out policies established at general membership meetings.
5. Report its transactions and those of the general membership to all members.
6. Direct an independent audit of the Association's financial records at regular intervals not to exceed two (2) years.
7. Ensure the Association acts on an annual financial report presented by the Association Treasurer.

*[Duties of the Board of Directors/Executive Committee must be defined.]*

**Section C.** There shall be one association representative elected for a term of \_\_\_\_ year(s) in each building or unit of representation for every ten (10) members or fraction thereof. Each representative has one vote on the Board of Directors/Executive Committee.

*[The ratio of representatives to members is necessary to ensure equal representation and preserve the one member/one vote principle. The ratio of 10:1 is only an example. Your preferred ratio may differ, but it should not exceed 25:1.]*

*[This sample language is necessary to comply with Section 9-2(b) & 9-2(d) of the OEA Bylaws.]*



**Section D.** It is the policy of this Association, and it shall take all legally permissible steps to achieve governance and delegate representation of ethnic minority at least proportionate to the ethnic minority membership in the Association.

*[The sample language in this section is necessary to comply with Section 9-2(d) of the OEA Bylaws.]*

**Section E.** Certified member(s) and education support professionals shall be elected to the Board of Directors/Executive Committee in proportion to their respective membership in the Association.

*[The sample language in this section is necessary to comply with Section 9-2(e) of the OEA Bylaws.]*

**Section F.** A vacancy on the Board of Directors/Executive Committee due to death, incapacity, termination, resignation, retirement or recall, shall be filled for the remainder of the term by majority vote of the Board of Directors/Executive Committee of the local.

**Section G.** No business or financial transaction involving a member of the Executive Committee/Board of Directors or agent of the Association, or their spouse, children, or parents, or otherwise as described in this Section, shall conflict with the fiduciary responsibility of such person to the Association. Such relationships with the members of the Executive Committee/Board of Directors include relationships with any person that would reasonably be expected to affect the person's judgment with respect to the transaction or conduct in question in a manner adverse to the Association.

**[EXAMPLES OF POSSIBLE CONFLICT WITH FIDUCIARY RESPONSIBILITY:**

*The association hired a business and the owner of that business is a relative of an officer who would be writing that business a check.*

*The association hires an accountant who is a spouse of an officer of the local.]*

*[This sample language is supported by Ohio Revised Code Section 4117.19 (C)(2) and is necessary to comply with Section 9-2(b) of the OEA Bylaws.]*

## ARTICLE VI. ELECTIONS

**Section A.** The President shall appoint a Nominating Committee whose duty it shall be to present a slate of officers for each office. Candidates for office may also be submitted by a petition signed by at least fifteen (15) active members or by nomination from the floor.

*[It is appropriate that local leadership continually identifies, develops, and encourages activism in the local association.]*

**Section B.** No member shall be nominated for office without the knowledge and consent of the individual.

*[No person can be drafted for office without the consent of the person.]*

**Section C.** The President shall appoint an Elections Committee whose duty it shall be to conduct elections in accordance with the OEA Elections Manual and to resolve all challenges or protests to an election. No nominee for office shall serve concurrently on the Elections Committee.

*[This is necessary to comply with section 9-2(f) and 9-2(m) of the OEA Bylaws. Members of the Elections Committee should be impartial and charged with conducting the election in a fair and neutral fashion. Members should consult the OEA Elections Manual for guidelines as to how to run an election that is in technical compliance with the state and federal statutes.]*

**Section D.** Choose one of the following options:

### Option 1

Elections of officers and Board of Directors/Executive Committee members shall be conducted by secret ballot in each building during one school day designated by the Elections Committee.

### Option 2

Elections of officers and Board of Directors/Executive Committee members shall be conducted by mail ballot election (using a double envelope system to insure ballot secrecy). The mail ballot election schedule shall be determined by the Elections Committee.

*[Consult the OEA Elections Manual to decide the method that best fits your local.]*

**Section E.** The Elections Committee shall report the results of the election to the total membership within five (5) calendar days following the election.

**Section F.** All ballots (marked, unmarked, and voided) and all other records pertaining to the election of officers of this Association and OEA and NEA delegates and alternates shall be preserved for one year from the date the election was held; and such ballots and other records shall be made available to OEA officers upon request for inspection and examination.

*[This sample language is necessary to comply with Section 9-2(h) of the OEA Bylaws.]*

**Section G.** Non-members of the Association, including fee payers, shall not have the right to vote, hold office, or otherwise have privilege of Association membership.

*[Only members of the local association may become officers, nominate and vote in elections or have any other right to participate in the decision-making process of the association.]*

*[Language relating to the processes and procedures of Fair Share Fee payers should be in the Collective Bargaining Agreement (CBA) and not in the C&B.]*

## ARTICLE VII. IMPEACHMENT OF OFFICERS

- Section A.** Officers of the Association may be impeached for violation of the Code of Ethics of the Education Profession or for misfeasance, malfeasance, or nonfeasance in office.
- Section B.** Impeachment proceedings against an officer may be initiated by written petition submitted to the Board of Directors/Executive Committee by at least twenty-five (25) percent of the members.
- Section C.** If, after a due-process hearing, a two-thirds (2/3) vote of the Board of Directors/Executive Committee sustains the charge, the office shall become vacant.
- Section D.** The officer may appeal the decision to a special meeting of the general membership.

*[Methods must be provided to remove officers who do not perform adequately the duties of their position. Any removal process, however, must provide an adequate due-process hearing which gives the accused officer notice of the charges and the basis for the charges against her/him, a right to hear or see the evidence against her/him, a right to representation, the right to examine or cross-examine witnesses, and the right to present evidence to rebut the charges.]*

*[This sample language is necessary to comply with section 9-2(b) of the OEA Bylaws.]*

## ARTICLE VIII. COMMITTEES

- Section A.** The Association shall have such standing committees as are necessary to carry out the responsibilities and program of the Association.
- Section B.** Ad hoc (temporary) committees may be formed as necessary to achieve the Association program.
- Section C.** All committees shall be appointed by the President with the approval of the Board of Directors/Executive Committee. If Committee Chairs are members of the Board of Directors/Executive Committee, they must be elected to have voting rights.

*[The sample language in Section A is necessary to comply with section 9-2(m) of the OEA Bylaws.]*

## ARTICLE IX. DUES

**Section A.** The local association shall have a dues structure adequate to fund an active program.

*[This sample language is necessary to comply with Section 9-2(j) of the OEA Bylaws.]*

## ARTICLE X. AMENDMENTS

**Section A.** Amendments to this Constitution may be made by a two-thirds (2/3) majority of those voting at any regular meeting provided that the amendments have been introduced at the preceding regular meeting and that copies of proposed amendments have been distributed to all members for discussion.

## **MODEL LANGUAGE – BYLAWS**

*[While the Constitution establishes the framework of an association, the bylaws of an association sets forth the rules by which the association works. Duties and responsibilities of officers and committees are listed. Methods by which decisions are made and business conducted are established.*

*Because bylaws relate to and are affected by day-to-day events more than the constitution, typically, it is easier to amend the bylaws than it is the constitution of a local association.]*



## BYLAW 1. MEETINGS

**Section 1-1.** The Board of Directors/Executive Committee shall meet monthly or at the call of the President.

*[The Board of Directors/Executive Committee typically meets more frequently than the general membership because it is necessary to make decisions on business matters.]*

**Section 1-2.** The general membership meetings shall be held at least twice per year, e.g. one in spring and one in the fall or once in September and once in May. Additional meetings may be called by the President, a majority vote of the Board of Directors/Executive Committee, or a petition to the President signed by at least ten (10) percent of the active membership. Such petitions shall state the purpose of the desired meeting and the business of that meeting shall be limited to consideration of the stated purpose.

*[A minimum of two meetings, spaced out over the year meets the requirement of OEA Bylaw 9–2(k) that local associations provide for regular meetings.]*

## **BYLAW 2. QUORUM**

**Section 2-1.** The quorum for the Board of Directors/Executive Committee meetings shall be one more than fifty (50) percent.

**Section 2-2.** The quorum for a general meeting shall be the membership present.

*[It is necessary to establish the percentage of members of a body that must be present before that body can conduct business.]*

### **BYLAW 3. DUTIES OF OFFICERS**

*[Provide descriptions of duties for every officer that is named in the Constitution.]*

#### **Section 3-1. President**

- A. Preside over all Association meetings and prepare their agendas.
- B. Represent the Association on all matters of Association policy.
- C. Serve as ex-officio member of all Association committees.

*[The President, as the leader of the local association, has those responsibilities necessary to provide leadership. "Ex-officio" means that by right of holding the office of president, the President can attend Association committees meetings, however the Bylaws need to specify whether he/she has voting rights.]*

#### **Section 3-2. President-Elect/Vice President**

- A. Preside over Association meetings in the absence of the President.
- B. Perform such other duties as delegated by the President.

*[The office of president-elect exists only if Option 3 of Article IV of the Model Constitution is selected (see page 7.) Otherwise, the title of the office is Vice President.]*

*[Some local associations may want their President, President-Elect/Vice President, or other officers to be a delegate to the OEA and/or NEA Representative Assemblies by virtue of the office. If that is the case, language must be included in the bylaws to that effect under the duties of the specific officer. A sample would be:*

*"Serves as a delegate to the OEA (and NEA, if desired) Representative Assembly by virtue of her/his office."*

*Similar language should also appear on the ballot when electing officers who hold delegate status by virtue of their local office.]*

**Section 3-3. Immediate Past President (Use only if this office is named in the Constitution (see Option 3 of Article IV of the Model Constitution)).**

- A. Presides over Association meetings in the absence of the President and President-Elect/Vice President.

**Section 3-4. Secretary**

- A. Keep accurate minutes of all official meetings of the Association.
- B. Maintain official files of the Association including maintaining electronic copy of Association Constitution and Bylaws.
- C. Perform such other duties as delegated by the President.

**Section 3-5. Treasurer**

- A. Hold the funds of the Association and disburse them upon authorization of the Board of Directors/Executive Committee.
- B. Maintain records of receipts and disbursements.
- C. Maintain membership rolls. *[Note: This duty may be handled by a Membership Chair.]*
- D. Prepare financial reports for meetings of the Board of Directors/Executive Committee and an annual financial statement to be distributed to the membership.  
*[This sample language is required by Ohio Revised Code Section 4117.19 (C)(1)]*
- E. Prepare all tax forms required by state and federal government or work with those who assist the association.
- F. Prepare for an independent audit as authorized by the Board of Directors/Executive Committee.
- G. Shall be bonded.
- H. Chair the Budget Committee.

*[The Treasurer of a local association is often the busiest local association officer because the Treasurer is responsible for meeting all state and federal tax requirements. The OEA publishes a Treasurer's Handbook, which is updated annually to assist the Treasurer in the performance of her/his duties.]*

**Section 3-6. Association Representative**

- A. Report recommended policies and other actions of the Board of Directors/Executive Committee to members in her/his building or unit of representation.
- B. Transmit proposals and recommendations from members in her/his building or unit of representation to the Board of Directors/Executive Committee for its consideration.

*[The sample language in Sections A and B are examples to comply with section 9-2(l) of the OEA Bylaws.]*

- C. Assist the membership committee in the collection of dues.
- D. Assist the elections committee in the collection of ballots.
- E. Attend all official meetings of the Association or provide an alternate in her/his absence.
- F. Act as a consultant to the individual member who has a professional problem and, when necessary, seek needed assistance from the Association.

## BYLAW 4. COMMITTEES

**Section 4-1.** There shall be the following committees:

**Negotiations** - assess membership concerns prior to bargaining, develop initial proposals of the Association, and provide additional advice and input, upon the request of the bargaining team, during active negotiations.

**Elections** – charged with the responsibility to protect the integrity of an election or vote and ensure that an election is conducted in accordance with the guidelines set forth in the OEA Election Manual and with local, state, and national constitutions.

*[This sample language is necessary to comply with section 9-2(f) and 9-2(m) of the OEA Bylaws.]*

**Grievance** - maintenance of, and membership advocacy in, grievance procedure.

**Professional Development** - pre-service, continuing, and in-service educational opportunities.

**Human Relations** - promotion of understanding, unity, and communication among all groups in the school and school district communities.

**Communications** - membership newsletter, press releases public relations.

*[This sample language is necessary to comply with section 9-2(l) of the OEA Bylaws.]*

**Legislative** - candidate endorsement/campaigning, EPAC fund collections, levy/bond campaigning, seek membership involvement in relevant local, state, and national political affairs.

**Budget** - prepares a budget giving estimates of income and expenditures (including a separate estimate for each committee) for the future fiscal year.

**Audit** - checks accuracy of accounting procedures.

**Membership** – maintains membership rolls, conducts and/or assists with membership drives, works in conjunction with the treasurer.

**Constitution and Bylaws** – reviews and submits to OEA the local's C&B when amended or every five years.

**Section 4-2.** Necessary sub-committees may be appointed, as needed, by the committee chairperson.

*[Many associations operate very effectively and provide a comprehensive program without an elaborate committee structure. Other than the Elections Committee which is required, ad hoc, or temporary committees, may be created and disbanded to deal with short-term issues and projects.]*

*[Each committee chairperson should have a written list of responsibilities and be responsible to the local Board of Directors/Executive Committee. The list of committees in Section 4-1 is just a sample of recommended standing committees.]*

## BYLAW 5. BARGAINING AND CONTRACT RATIFICATION

- Section 5-1.** The Association shall be represented in collective bargaining by an authorized team of Association Representatives appointed by the President and Board of Directors/Executive Committee.
- A. If the President is not an active member of the bargaining team, the President will be an ex-officio member of the Association bargaining team.
  - B. Members of the bargaining team need not necessarily be from the negotiations committee.
  - C. Necessary sub-committees may be appointed, as needed, by the committee chairperson.
  - D. The bargaining team shall have the authority to bargain in good faith; make proposals, counterproposals, and concessions; and make tentative agreement on a contract with representatives of the Board of Education.
  - E. While negotiations are in progress, periodic reports to members may be made by the bargaining team.
- Section 5-2.** In preparation for bargaining, the negotiations committee shall make reports and recommendations to the Board of Directors/Executive Committee.
- Section 5-3.** The Ohio Education Association represents the Association on all matters concerning the Association before the State Employment Relations Board (SERB) **OR** the National Labor Relations Board (NLRB).
- [The sample language in Section 5-3 is necessary to comply with section 9-2(g) in the OEA Bylaws.]*
- SECTION 5-4.** The OEA/NEA UniServ Consultant shall be the Association's designated bargaining representative.
- Section 5-5.** Written copies of the tentative agreement summary should be given to the general membership prior to ratification.
- Section 5-6.** Conduct all ratifications of collective bargaining agreements in accordance with the guidelines for ratification of collective bargaining agreements and fact finder reports as set forth in the OEA Elections Manual.



*[The sample language in Section 5-6 is necessary to comply with section 9-2(g) in the OEA Bylaws.]*

**Section 5-7.** A vote on a tentative agreement to the contract or on a fact-finding report shall be made by written ballot.

- A. No absentee or proxy votes will be allowed on contract ratification votes or fact-finding reports.
- B. The first vote on contract ratification or a fact-finding report will be to accept or reject the contract/report as presented.
- C. All ballots used in a vote regarding a contract ratification or fact-finding report, after tabulation, will be sealed and retained by the Association Treasurer for three (3) years or duration of contract, whichever is greater.
- D. The President will communicate required details of the ratification vote to the employer's designated representative.

**Section 5-8.** The designated representative for the Association is authorized to give timely notice of intent to strike to the *(insert employers name\*)*, SERB **OR** NLRB upon approval of the membership and in keeping with provisions of ORC 4117.14(D)(2).

*\*Typically this would be a Board of Education; however it could be another name. Insert the name that applies to the local's circumstances.*

**Section 5-9.** Non-members of the Association are not eligible to vote on a fact finder's report or contract ratification.

*[The sample language in Section 5-9 is necessary to comply with section 9-2(g) in the OEA Bylaws.]*

*[Bargaining is an important function of the local association, and to many members, it is the most important function.]*

*[Article 5 is designed to provide a procedure which is democratic, efficient, and in compliance with law. The OEA Elections Manual provides additional information on contract ratification procedures and should be consulted. To obtain a copy of The OEA Elections Manual, Log onto OEA's web site at [www.ohea.org](http://www.ohea.org) ► Members Login ► OEA Local Leaders ► Local Officer Documents. or contact your OEA Field Office for a copy.]*

*[Local Name Change – review SERB or NLRB requirements]*

*[For Section 5-3 and Section 5-8 see information in the Guidelines Section of this document and insert the correct language.]*

## BYLAW 6. DUES

**Section 6-1.** The dues rate for the succeeding year shall be determined by the April meeting of the Board of Directors/Executive Committee.

*[The authority to set annual dues is typically given to the Board of Directors/Executive Committee.]*

**Section 6-2.** Every member shall also pay the dues required by the district, state, and national associations with which this local is affiliated.

*[The sample language in Section 6-2 is necessary to comply with section 9-2(a) in the OEA Bylaws.]*

**Section 6-3.** The association shall annually enter into a Dues Transmittal Agreement with the Ohio Education Association.

*[Language relating to the processes and procedures of Fair Share Fee payers should be in the Collective Bargaining Agreement (CBA) and not in the C&B.]*

## **BYLAW 7. MEMBERSHIP YEAR**

**Section 7-1.** The membership year and the fiscal year of the Association shall be September 1 to August 31.

*[This sample language is necessary to comply with section 9-2(i) in the OEA Bylaws.]*

## BYLAW 8. EXPULSION OF MEMBERS

**Section 8-1.** According to procedures adopted by the Association, the Board of Directors/Executive Committee may censure, suspend from membership, or expel any member for one or more of the following reasons:

- A. Violation of the Code of Ethics of the Education Profession.
- B. Conviction of a felony.
- C. Actively engaging in, or actively supporting activities directed against the constitutional purposes of the Association to bring about changes in the Association by means other than those that are consistent with the Association's Constitution.

**Section 8-2.** The Board of Directors/Executive Committee may reinstate members previously suspended or expelled.

*[Though rarely used, local associations must have procedures for the discipline of members who act contrary to the purpose of the Association. An example of a contrary act is a member who crosses a picket line and works during a strike.]*

*[The sample language in Sections 8-1 and 8-2 are necessary to comply with section 9-2(b) in the OEA Bylaws.]*

**Refer to Appendix A for additional sample language (THE APPENDIX IS NOT REQUIRED LANGUAGE).**

## **BYLAW 9. DUE PROCESS**

**Section 9-1.** The Association guarantees that no member may be censured, suspended, or expelled without a due process hearing, which shall include an appropriate appellate procedure.

*[Before acting to censure, suspend, or expel a member, a local association should adopt adequate due process procedures, which include: providing the accused member with adequate notice of the charges, a right to a hearing, and the right to be represented.]*

*[The sample language in Section 9-1 is necessary to comply with section 9-2(b) in the OEA Bylaws.]*

**Refer to Appendix A for additional sample language (THE APPENDIX IS NOT REQUIRED LANGUAGE).**

## **BYLAW 10. AUTHORITY - PARLIAMENTARY PROCEDURE**

**Section 10-1.** Robert's Rules of Order, Newly Revised shall be the authority governing all matters of procedure not otherwise provided in this constitution, bylaws, or standing rules.

## **BYLAW 11. AMENDMENTS**

**Section 11-1.** Amendments, alterations, additions, or deletions to these Bylaws shall be made by a majority vote of the total active membership of the Association.

**Section 11-2.** Changes shall be proposed upon the initiative of the Constitution Committee or upon presentation to the Board of Directors/Executive Committee of a petition signed by twenty (20) percent of the current active membership. All proposed changes shall be submitted in writing to all active members at least ten (10) days prior to action.

## BYLAW 12. DISSOLUTION OF ASSOCIATIONS

- Section 12-1.** A petition for dissolution of the Association may be presented in writing to a meeting of the general membership by any member in good standing and must contain the signature of three-fourths (3/4) of the total membership of the Association.
- Section 12-2.** Upon receipt of the petition for dissolution by the total membership, the Association shall act upon the petition at the next general membership meeting.
- Section 12-3.** The Association shall be considered dissolved if three-fourths (3/4) of the total membership vote by secret ballot in favor of dissolution.
- Section 12-4.** The effective date of dissolution shall be thirty (30) days from the date of the vote, thus allowing for the disposal of assets and liabilities.
- Section 12-5.** In the event of dissolution of the Association, all assets of this organization remaining after payment of all obligations shall be distributed to   (A)   provided that it is an entity recognized as exempt from Federal taxation. In the event that   (A)   is not then recognized as tax exempt, such assets shall then pass to   (B)   provided that is recognized as exempt from Federal taxation.

*[The blank lines in 12-5 are to be filled in with a tax exempt entity (A) and an alternate (B). Assets cannot be distributed to members or any other entity that is not recognized as exempt from Federal taxation. Examples of exempted entities include: Ohio Education Association, American Heart Association, American Red Cross, Libraries, Established Scholarship Programs, etc.]*

*[This sample language is necessary to comply with section 9-2(b) in the OEA Bylaws.]*



### **BYLAW 13. ENABLING PROVISION**

**Section 13-1.** This Constitution and these Bylaws shall become effective \_\_\_\_\_, 20\_\_\_\_\_, following their adoption, and shall remain in effect until amended according to regulations herein provided.

## **Additional Comments**

- Language relating to the processes and procedures of Fair Share Fee payers should be in the Collective Bargaining Agreement (CBA) and not in the C&B.
- It is recommended that the local C&B document, either on the title page or back page, include the effective date of all Amendments.

## APPENDIX A

(Option to Constitution and Bylaws Document)

### GROUND FOR CHARGES AGAINST MEMBERS AND OFFICERS

Section 1. Every member of the Association, by virtue of such membership, agrees that, in consideration of the rights and benefits conferred upon him or her pursuant to the terms of the Association Constitution, he or she shall be subject to disciplinary action for any conduct which constitutes a violation of his or her duties and obligations as stated in Section 2 below. Every member, by virtue of his or her membership, agrees that termination of membership does not terminate his or her liability for discipline for acts occurring during the period of his or her membership.

Section 2. Any member or elected or appointed officer may be charged and disciplined for engaging in conduct which constitutes a violation of his or her duties and obligation to the membership. The basis for such charges shall include, but not be limited to, the following:

*[The following list of infractions is fairly comprehensive, and may be shortened at the discretion of the local association to include only those items which are priorities for the local. However, it may be easier to enact a comprehensive procedure as an initial matter than it is to enact an abbreviated one and later attempt to "add" infractions by amendment. While some of the infractions may appear redundant, each references a distinct violation.]*

- a. Violating any provision of the approved Constitution or established Bylaws of the Association or its affiliates.
- b. Failing to pay dues, fines, assessments, fees, and other financial obligations owed to the Association or its affiliates in a timely manner.
- c. Obtaining membership by misrepresentation or through other fraudulent means.
- d. Working in the interest of, or accepting membership in, any competing organization with interests dual to the Association.
- e. Furnishing a complete or partial list of the membership of the Association to any person other than those whose position entitles them to have a list, without specific authorization in writing from the Association President.
- f. Deliberately engaging in conduct which violates the responsibility of members toward the Association as an institution.
- g. Unreasonably, unlawfully or improperly disturbing the peace or harmony of any meeting of the Association.
- h. Embezzling, misappropriating, fraudulently receiving, wrongfully handling, or failing to account for the funds of the Association, or any employee benefit fund.
- i. Wrongfully taking, retaining, or destroying any money, books, papers or any other property belonging to the Association.
- j. Using the name of the Association for soliciting funds, for advertising, or for any other similar activities.

- k. Crossing or working behind a lawful and properly authorized picket line established by the Association.
- l. Working for lower wages, longer hours, or other conditions inferior to those established by the Association collective bargaining agreement.
- m. Acting in any way to circumvent, defeat or interfere with: (1) the Association's collective bargaining agreement with the employer or (2) the Association's performance of its legal or contractual rights or obligations.
- n. Disclosing any confidential matter of Association or its affiliates to any employer or employer agent.
- o. Acting in collusion with any employer or employer agent to the detriment of the Association.
- p. In the case of any elected or appointed Officer of the Association, failing to faithfully perform the duties of his or her office or position, or accepting dual compensation or expenses for the performance of duties related to his or her office or position.
- q. Making false and malicious statements which jeopardize the employment or reputation of another Association member.
- r. Filing a malicious and frivolous charge against a member or Officer, as evidenced by the Hearing Board's dismissal of said charge with a finding that the charge was malicious and frivolous.

## **DISCIPLINARY PROCEEDINGS**

*[The following hearing procedure contemplates a Hearing Board over which the Local Association President (or another Board of Directors/Executive Committee officer) presides, but is otherwise comprised of non-officer members. Basic rules of order and procedure are established. An appeal to the Local Association Board of Directors/Executive Committee is established. A further level of appeal to the OEA Executive Board may also be available, but that would be pursuant to the OEA's C&B.]*

### **Section 1: Establishment of the Hearing Board.**

- a. The Association President shall have the authority to establish and preside as Chairperson over a Hearing Board consisting of three (3) members to hear any disciplinary case. No Association officer or Board of Directors/Executive Committee member may be appointed to the Hearing Board. No charging party or accused member or a witness may serve on the Hearing Board in the conduct of disciplinary proceedings involving said member or witness. Where the Association President is unable to serve for any reason, the Association Vice President shall act as Chairperson. Where the Vice President is unable to serve for any reason, the remaining members of the Association Executive Board shall designate one of their number to act as Chairperson.
- b. On motion filed with the Hearing Board prior to the hearing, either party may ask that a particular Hearing Board member be excused from participating in the proceeding if said party believes and has evidence that he or she cannot receive a fair hearing before that Hearing Board member. The Hearing Board shall give precedence to consideration of such motion.
- c. For purposes of any Hearing Board Proceedings, a quorum of the Hearing Board shall consist of three of its members, and a quorum shall be required throughout the hearing.
- d. If a Hearing Board member is absent during any portion of the hearing, he or she may not participate further in the proceeding.
- e. All questions of order, procedure, and admissibility of evidence shall be decided by the Chairperson, subject to being overruled by a majority vote of the Hearing Board upon motion by a member of the Board.

### **Section 2: Procedure for Filing Charges.**

- a. An Association member accused of violating Bylaw \_\_\_\_ (“Grounds for Charges against Members and Officers”) shall be charged and tried before the Association Hearing Board. Any person who is no longer a member shall be charged and tried in the Association if the acts giving rise to the charges occurred while said person was a member of the Union.
- b. Charges may be initiated by an active member of the Association.
- c. More than one charging party may join in the same set of charges, but the charges must name one of the charging parties as the representative of the others to be responsible for filing papers, receiving papers, and trying the case. Where the charges fail to designate such representative, then the first charging member named in the charge shall be considered the representative of the others.

- d. All charges and documents related to the charges shall be considered filed as of the postmark date (if sent via United States Mail), or the date of receipt by the Association (if hand delivered). It is the charging party's responsibility to verify that the filing date is accurately noted on all documents.
- e. Charges shall be filed in writing with the Association within thirty (30) days after the occurrence of the alleged violation, or if applicable, within thirty days after the alleged violation should have been discovered. Notwithstanding the date of discovery, any charge based upon alleged misconduct which occurred more than one (1) year prior to the filing of the charge shall be rejected by the Association Board of Directors/Executive Committee as time-barred, except for charges based upon the non-payment of dues, assessment and other financial obligations.

*[The foregoing time limitations in Section (e) are merely suggestions to provide for some degree of closure, but be aware that the one year limit –as long as it seems– may still prevent the filing of charges regarding legitimate, recently discovered (though very old) infractions. Again, this timeline (and any timeline suggested herein) may be adjusted at the discretion of the local association.]*

- f. The charges shall specify the Article or Articles of the Association's Constitution and/or Bylaws allegedly violated and shall also set forth a short and plain factual statement of the acts considered to be in violation (including available information as to dates and places) in such a manner as to fairly inform the accused of the specific acts which are alleged to constitute violations of the Constitution. By vote of the Association Board of Directors/Executive Committee, charges failing to comply with this requirement shall be dismissed by the Association Board of Directors/Executive Committee, without prejudice to the re-filing of charges which do comply, provided the re-filing occurs within the original thirty (30) day time limit.
- g. A true and correct copy of the charges, a copy of the Association Constitution and a copy of any applicable policies shall be served upon the accused without delay via first class certified U.S. mail with return receipt requested. The accused shall be afforded seven (7) days after receipt to reply in writing to the charges, if he or she so desires.

### **Section 3: Hearing Procedure.**

- a. On motion of the accused before a Hearing Board, or upon its own motion, the Hearing Board may dismiss without a hearing any charges it finds are of such a trivial or frivolous nature that the interest of the Association does not justify the expenditure of time, money and other resources necessary for the conduct of a disciplinary proceeding.
- b. The hearing on the charges shall be held as soon as practicable, but no later than sixty (60) days following the date on which the charges are filed. Upon request of either party, for good cause shown, the Hearing Board may grant an adjournment to a later date, not to exceed 120 days from the date charges were filed. The Hearing Board shall have the power, upon its own motion, to postpone any scheduled hearing, provided such postponement shall not result in a hearing beyond 120 days from the date the charges were filed. Any such Hearing Board decision to postpone the hearing beyond the scheduled date or to set a hearing for 60 days beyond the date that the charge was filed must be served upon all parties immediately. Every effort shall be made to schedule the hearing so that it does not conflict with the working schedule of the parties, and at least 14 days notice of the hearing date shall be given in writing to all parties. Any request for the postponement of the hearing date must be received by the Hearing Board at least three (3) days before the scheduled hearing date unless a satisfactory showing is made of inability to comply with this requirement. In the event the accused fails to appear for a duly noticed hearing, the hearing shall nevertheless proceed.

*[The hearing time frames in Section (b) are again merely suggestions. They may be shortened so long as sufficient time is given in light of due process, so it doesn't appear that the process is overly rushed.]*

- c. No member or Officer shall be required to stand before the Hearing Board on charges involving the same set of facts upon which said member or officer is facing criminal or civil trial until his/her final court appeal has been concluded.
- d. The accused and the charging party shall have a fair and impartial hearing and shall have the right to present witnesses and other evidence on their behalf and the right to examine/cross-examine all witnesses. The accused and the charging party shall have the right to refuse to testify. The accused and the charging party may be assisted, advised, or represented by another member of the Association. At the commencement of the hearing, the Chairperson of the Hearing Board shall advise the parties of their rights as set forth in this section and shall read the charges to the accused. The accused shall then plead guilty or not guilty to each charge. In the event the accused elects not to appear or to respond, he or she shall be deemed to have entered a plea of not guilty, and the hearing shall proceed. Throughout the hearing, there shall be a presumption of innocence in favor of the accused. The charging party shall present his or her case first and shall have the burden of proving the allegations contained in the charge. At the close of the charging party's case, either the accused or a member of the Hearing Board shall have the right to make a motion to dismiss the charges because the charging party has failed to present record evidence that establishes a violation of the Association Constitution or Bylaws.
- e. Upon the completion of the hearing proceedings, the Hearing Board shall, without undue delay, determine the innocence or guilt of the accused, based solely on the record evidence. The parties shall be advised of the decision via first class certified U.S. mail with return receipt requested, and in duplicate by regular U.S. mail. A verdict of guilty shall require a two-thirds majority vote of the Hearing Board. If the decision is that of guilty, the Hearing Board shall affix appropriate penalties. Any member found guilty of any one or more of the charges against him or her may be censured, fined, suspended, and/or expelled, provided that such discipline shall not be imposed without stating with detailed specificity what the discipline is being imposed for. In the event of a finding of guilty on a charge that a member has crossed or worked behind a lawful and properly authorized picket line established by the Association, the penalty imposed shall be the greater of twice the charged party's per diem rate or five hundred dollars (\$500.00) per day. The decision and any penalty imposed on the basis of the decision shall be reported to the Association Board of Directors/Executive Committee within seven (7) calendar days of the date of the decision.

*[The foregoing fine amount is suggested as a starting point, and may be adjusted at the discretion of the local association.]*

- f. The accused may appeal the decision and/or penalty imposed by the Hearing Board to the Association Board of Directors/Executive Committee. Any such appeal must be filed no later than seven (7) days after the accused's receipt of notification of the Hearing Board's decision/ penalty. The Association officer who presided as Chairperson of the Hearing Board must abstain from voting on the appeal. Any penalty imposed by the Hearing Board shall become immediately operative unless the accused moves the Association Board of Directors/Executive Committee to stay the penalty pending the outcome of the appeal, and the Board of Directors/Executive Committee grants such motion.

**APPENDIX B**

C&B Received Date: \_\_\_\_\_ SUBMITTED BY \_\_\_\_\_

Legal Review/Date: \_\_\_\_\_ LOCAL ASSOCIATION NAME \_\_\_\_\_

C&B Effective Date: \_\_\_\_\_  
 Review    Memo/Email    Update BoD Report    Input into 360    Save in Legal Dept file

**OEA STANDARDS FOR AFFILIATIONS TEST FOR LOCAL ASSOCIATIONS**

Standards for Affiliation of departments, districts, and local associations as required in OEA Bylaw 9-2

+9.2	Page from *Model		Article/Section Local C&B
a.1	4	Affiliation – The local shall maintain affiliation with OEA/NEA/District Associations	_____
a.2	6	Unified Membership – All members will be members of OEA/NEA/District Associations	_____
a.3	28	Dues – All members will also pay dues for OEA/NEA/District Associations	_____
b.		Have a constitution consistent with the constitution of OEA (Legal Review)	_____
b.1	7/21	Ensure Officers defined in Constitution are the same as the Bylaws and have duties assigned _____	_____
b.2	7	Starting Date of Officers _____	_____
b.3	7	Terms of Officers _____	_____
b.4	7	Qualifications for Officers (Not Required, but <b>if included</b> , check if reasonable)	_____
b.5	8-9/11	Filling Vacancy During Term of Office _____	_____
b.6	10	Only Elected Executive Committee Members Have Voting Rights _____	_____
b.7	10	Terms of Office for Building Representatives _____	_____
b.8	11	Conflict with Fiduciary Responsibility _____	_____
b.9	13	Non-Members Have No Right To Vote – Elections _____	_____
b.10	14	Impeachment/Due Process _____	_____
b.11	20	Quorum _____	_____
b.12	26	OEA as Designated Representative with SERB or NLRB (different than naming as negotiations representative) _____	_____
b.13	13/28/36	Fair Share Fee Language (should be in the Collective Bargaining Agreement, not the local C&B) _____	_____
b.14	30	Expulsion of Members _____	_____
b.15	31	Due Process for Expulsion of Members _____	_____
b.16	34	Dissolution _____	_____
b.17		Other _____	_____

+9.2 column refers to the article letter in OEA's Bylaw 9-2.

\*Model refers to OEA Model Constitution and Bylaws for Local Association



+9.2	Page from *Model	<b>CONTINUATION OF OEA STANDARDS OF AFFILIATIONS TEST FORM</b>	Article/Section Local C&B
c.	6	All members shall abide by the Code of Ethics of the Education Profession.	_____
d.1	10	Provide a ratio of representatives to members to ensure equal representation. (one member-one vote principle) Example: One (1) representative in each building for every fifteen (15) members.	_____
d.2	11	The affiliate shall provide for <u>ethnic-minority representation</u> at least proportionate to its ethnic-minority membership.	_____
e.	11	Provide for proportional representation between its classroom teacher members and its education support personnel members. (Where a multi-jurisdictional affiliate exists.)	_____
f.	12	Require periodic elections of officers by secret ballot subject to safeguards concerning the equal right of all members to nominate, seek office, and vote in elections as set forth in the OEA Elections Manual.	_____
g.1	26	Conduct all ratifications of collective bargaining agreements in accordance with the guidelines as set forth in the OEA Elections Manual.	_____
g.2	27	Non-Members have no right to vote – contract ratification	_____
h.	13	<u>Preserve all ballots</u> , marked, unmarked and voided, and all other record pertaining to elections of OEA officers, OEA and NEA delegates and alternates for one year from the election, and make such ballots and other record available to OEA officers and/or designee(s) for inspection and examination.	_____
i.	29	Have the same <u>membership</u> year as that of OEA, September 1 – August 31.	_____
j.	16/28	Have a <u>dues structure</u> to fund adequately a quality program.	_____
k.	19	Provide for <u>regular meetings</u> (at least two per year – spaced out over the year.)	_____
l.	23/24	Provide for effective member communication.	_____
m.1	15	Provide for <u>effective committee structure</u> to achieve the goals of the organization.	_____
m.2	12/24	Have an <u>election committee</u> .	_____
n.		Provide for actively seeking exclusive bargaining representation. (For New Affiliations Only.)	_____

-----AREA BELOW FOR OEA USE ONLY-----

Representative Assembly Status by Virtue of Office.

OFFICE	DELEGATE	ALTERNATE	OEA RA	NEA RA
President	_____	_____	_____	_____
Vice-President	_____	_____	_____	_____
Treasurer	_____	_____	_____	_____
Secretary	_____	_____	_____	_____
Other:	_____	_____	_____	_____

March 2023

## STANDARDS TEST INSTRUCTIONS

- Indicate the article and section of the Constitution or Bylaws that complies with the standard.
- If the language is located in the Bylaws, please precede the article and section number with a “B.” (i.e., Constitution Article I, Section A, would be “I(A)” and Bylaws Article 1, Section 1-1, would be “B-1(1-1).”
- Note item **e.** on the list is not required of all locals.
- There is no requirement for the completion of delegate by virtue of office. However, if this language is part of the C&B, OEA is required to verify that it complies with election requirements.
- If any requirements are missing, make the necessary modifications to your C&B prior to submitting to OEA.
- Some problem areas to watch for:
  1. In addition to requiring local affiliation with OEA, NEA, and District, unified membership is also required in those organizations **(a.)**
  2. “Conflict with Fiduciary Responsibility” was added more recently and may not be in an older Constitution and Bylaws last reviewed prior to 2013. **(b.8)**
  3. Remember to include Election Manual **(f.g.)** and Election Committee **(m.)**
  4. Reference “membership” year not just fiscal year. **(i.)** (This should coincide with OEA membership year, September 1 through August 31.)
  5. References to the “dues structure” are contained in both the Constitution and the Bylaws. Language for the Constitution refers to specifically stating the “dues will adequately fund a quality program;” and language for the Bylaws refers to the dues calculation (i.e. percent of OEA dues amount, percent of average teacher salary, etc.) **(j.)**
  6. “Provide for regular meetings” means that at least two general membership meetings are held spaced out over the year, e.g. one in the spring and one in the fall or once in September and once in May. **(k.)**
  7. “Effective communications” means reporting to and from the Executive Committee and if possible, having a member newsletter. **(l.)**
  8. You cannot have as voting members of your Executive Committee any non-elected members. The most frequent violation is when non-elected committee chairs are voting members of the Executive Committee.

Send hard copies of completed test, copy of C&B and submission form to:

Ohio Education Association  
Legal Department  
225 East Broad Street  
Box 2550  
Columbus, Ohio 43216

Or submit electronic copies to:  
[candb@ohea.org](mailto:candb@ohea.org)

## APPENDIX C

### BYLAW 9-2 FROM THE 2022-2023 OEA CONSTITUTION AND BYLAWS

An affiliate shall:

- a. Require membership, if eligible, in the local, district, state and national associations provided that if the local association elects by secret ballot to exclude Education Support Professionals from membership, that the affiliated local composed exclusively of Education Support Professionals shall require membership, if eligible, in a local association for Education Support Professionals and the district, state and national associations.
- b. Have a Constitution consistent with the Constitution of OEA.
- c. Adopt a policy that recognizes the preeminence of the **Code of Ethics of the Education Profession**, if appropriate.
- d. Apply the one-member, one-vote principle for representation on its governing bodies and the affiliate shall provide for ethnic-minority representation at least proportionate to its ethnic-minority membership.
- e. Provide for proportional representation between its classroom teacher members and its education support professional members where a multi-jurisdictional affiliate exists.
- f. Require periodic elections of officers by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in elections, as set forth in the OEA Elections Manual.
- g. Conduct all ratifications of collective bargaining agreements in accordance with the guidelines for ratification of collective bargaining agreements and fact finder reports as set forth in the OEA Elections Manual.
- h. Preserve all ballots, marked, unmarked and voided, and all other records pertaining to elections of OEA officers, OEA and NEA delegates and alternates for one year from the election, and make such ballots and other records available to OEA officers and/or designee(s) for inspection and examination.
- i. Have the same membership year as that of OEA.
- j. Have a dues structure to fund adequately a quality program.
- k. Provide for regular meetings.
- l. Provide for effective member communication.
- m. Provide for effective committee structure to achieve the goals of the organization. Such structure will include an election committee.
- n. Be reviewed by the Board of Directors every five (5) years to determine compliance with the above minimum standards.

- o. In the case of a local affiliate, the local must have or be actively seeking the status of exclusive bargaining representation of the members of the local.

## APPENDIX D

### CODE OF ETHICS OF THE EDUCATION PROFESSION

#### Preamble

*The National Education Association believes that the education profession consists of one education workforce serving the needs of all students and that the term 'educator' includes education support professionals.*

*The educator, believing in the worth and dignity of each human being, recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of the democratic principles. Essential to these goals is the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts the responsibility to adhere to the highest ethical standards.*

*The educator recognizes the magnitude of the responsibility inherent in the teaching process. The desire for the respect and confidence of one's colleagues, of students, of parents, and of the members of the community provides the incentive to attain and maintain the highest possible degree of ethical conduct. The Code of Ethics of the Education Profession indicates the aspiration of all educators and provides standards by which to judge conduct.*

*The remedies specified by the NEA and/or its affiliates for the violation of any provision of this Code shall be exclusive and no such provision shall be enforceable in any form other than the one specifically designated by the NEA or its affiliates.*

#### PRINCIPLE I

##### Commitment to the Student

The educator strives to help each student realize his or her potential as a worthy and effective member of society. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator--

1. Shall not unreasonably restrain the student from independent action in the pursuit of learning.
2. Shall not unreasonably deny the student's access to varying points of view.
3. Shall not deliberately suppress or distort subject matter relevant to the student's progress.
4. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.
5. Shall not intentionally expose the student to embarrassment or disparagement.
6. Shall not on the basis of race, color, creed, sex, national origin, marital status, political or religious beliefs, family, social or cultural background, or sexual orientation, unfairly--
  - a. Exclude any student from participation in any program
  - b. Deny benefits to any student

c. Grant any advantage to any student

7. Shall not use professional relationships with students for private advantage.
8. Shall not disclose information about students obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.

## **PRINCIPLE II**

### **Commitment to the Profession**

The education profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

In the belief that the quality of the services of the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to promote a climate that encourages the exercise of professional judgment, to achieve conditions that attract persons worthy of the trust to careers in education, and to assist in preventing the practice of the profession by unqualified persons.

In fulfillment of the obligation to the profession, the educator--

1. Shall not in an application for a professional position deliberately make a false statement or fail to disclose a material fact related to competency and qualifications.
2. Shall not misrepresent his/her professional qualifications.
3. Shall not assist any entry into the profession of a person known to be unqualified in respect to character, education, or other relevant attribute.
4. Shall not knowingly make a false statement concerning the qualifications of a candidate for a professional position.
5. Shall not assist a noneducator in the unauthorized practice of teaching.
6. Shall not disclose information about colleagues obtained in the course of professional service unless disclosure serves a compelling professional purpose or is required by law.
7. Shall not knowingly make false or malicious statements about a colleague.
8. Shall not accept any gratuity, gift, or favor that might impair or appear to influence professional decisions or action.

*Adopted by the NEA 2010 Representative Assembly*

***OHIO EDUCATION ASSOCIATION***  
***MANUAL FOR THE***  
***CONDUCT OF LOCAL ASSOCIATION ELECTIONS***  
***AND THE***  
***RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS***

A guide to conducting certain local association elections, contract ratification votes, and elections to accept or reject fact-finder's recommendations in accordance with the OEA Constitution and Bylaws, the federal Labor-Management Reporting and Disclosure Act, and the Ohio Public Employees Collective Bargaining Law.

Revised Aug 2020

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## **1. INTRODUCTION**

The conduct of local association elections and contract ratification votes and related fact-finding elections is more than a matter of common sense. Such elections and votes must conform to the governing documents of the local association, the OEA and the NEA and, as appropriate, the Ohio Public Employees Collective Bargaining Law. Additionally, the OEA voluntarily complies with the requirement of the Labor-Management Reporting and Disclosure Act, which is commonly known as the Landrum-Griffin Act, and related rules and regulations of the U.S. Department of Labor. Accordingly, local OEA affiliates that elect OEA and/or NEA representative assembly delegates and alternates are governed by Landrum-Griffin requirements for those elections as well. **Local association elections that do not involve the election of OEA or NEA representative assembly delegates or alternates are not governed by Landrum-Griffin requirements.**

This OEA manual is compiled from these sources and is designed to provide a concise and authoritative reference for those who are responsible for the proper and orderly conduct of local association elections and contract ratification votes. Following the manual, in Appendices A through G, is a sample combined nominations and election notice, checklists for conducting on-site and mail ballot elections, safeguards for absentee ballot privileges, a sample ballot, a sample tally sheet, and a copy of the Ohio Administrative Rules concerning votes. Thus, each OEA affiliate will have all the tools necessary to conduct a fair and democratic election.

The OEA and NEA are firmly committed to insuring that all internal elections and contract ratification votes are conducted fairly and democratically. This commitment to such democratic principles as open nominations, the secret ballot, and one person-one vote is of considerable importance to the membership and is one of the major advantages setting the Association apart from many other labor organizations.

By strict adherence to the procedures outlined in this manual and careful attention to detail, local association elections and contract ratification votes will be conducted fairly, legally and democratically, thus meeting the expectations of the membership.

## **2. POSITIONS TO BE ELECTED**

Policy-making positions must be elected.

The constitution and bylaws of the local association are the chief guide determining which positions are to be elected rather than appointed within the local association. Section 4117.19 of the Ohio Revised Code, however, requires that the constitution or bylaws of local associations "require the periodic election of officers by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in local elections..."The term "officers" is not defined in the statute, but it is prudent to use the meaning given to the word in federal law. Section 452.17 of the U. S. Department of Labor's regulations concerning the Landrum-Griffin Act defines an "officer" as "any constitutional officer, any person authorized to perform the functions of the president, vice-president, secretary, treasurer or other executive functions of a labor organization, and any member of its executive board or committee."

An officer of a local association as defined above must be elected directly by the membership. Indirect elections are not permitted. For example, a local association president cannot be elected by the Board of Directors of the local association. He or she must be directly elected by the membership. (This requirement does not apply to mid-term vacancies, which may be filled in any manner permitted under a local association's constitution and bylaws). Also, it is improper to give a grievance committee chairperson, who is appointed to the chair, a seat on the local association's Board of Directors. All seats on the Board of Directors must be filled through direct election. If a

local association's Board of Directors or board of governors is made up of committee chairs or building representatives, the committee chairs or building representatives must be elected. Committee chairs can be appointed to an Board of Directors if they are non-voting members of the committee.

### **3. FREQUENCY OF ELECTIONS**

At least every three years, preferably more frequently.

Section 4117.19 of the Revised Code requires that a local association constitution or bylaws must require the "periodic election of officers by secret ballot..." The word "periodic" is not defined. Most local associations elect officers every year or every two years. The Landrum-Griffin Act requires employee organizations subject to its provisions to hold local elections at least every three years, and it is advisable to assume that this three-year limit might be considered the outside limit of "periodic election" under state law.

### **4. QUALIFICATIONS**

Qualifications must be reasonable and uniformly imposed.

Except for requiring that a candidate be a member in good standing, it is not mandatory that a local association establish qualifications for office. If a local's constitution sets qualifications for office, the qualifications must be "reasonable qualifications uniformly imposed." What is reasonable is a matter not susceptible to precise definition.

All qualifications for office must be set forth in the local association's constitution and bylaws. **It is advisable, due to the legal complexities involved, that the OEA Director of Legal Services be consulted if or when a local association seeks to require a qualification, other than membership, to hold association office.**

A qualification of continuous membership in good standing, if set out in a Local Association's constitution and bylaws, is valid only if it is limited to a period of two years or less. It is permissible for a Local Association's constitution and bylaws to reserve a certain number of seats on a Board of Directors for particular representative categories of membership. For example, certain seats can be reserved for building representatives or ESP representatives. However, it is not permissible to reserve any table officer position (ie. president, vice president, secretary or treasurer) to a particular class of membership.

### **5. NOTICE OF NOMINATIONS**

Every member must have a reasonable opportunity to nominate for or seek office.

The first step in the elections process is the holding of nominations. The first step in the holding of nominations is to make the membership aware that nominations are to take place. The notice of nominations must indicate what offices are to be filled, and spell out the process by which a nomination can be made. If nominations are made at a membership meeting, members must be informed of the date, time and place of the meeting. If nominations are made by letter/form, then members must be informed of the deadline for submitting nominations and the name and address of the person to whom the nomination should be submitted.

The notice of nominations must be in conformity with a local association's constitution and bylaws and must be reasonably calculated to inform all members in good standing in sufficient time to permit such members to nominate the candidates of their choice. Posting on bulletin boards,

individual mailing, inclusion in a newsletter are all acceptable means of notification so long as they are reasonably calculated to reach all members in good standing. In order to avoid any misunderstandings, it is suggested that the nomination notice also set out the terms of office, and the date the terms of office commence for each office to be elected.

Local associations may have and can adopt specific procedures for notification of nominations. Any arrangement is permissible so long as it is reasonably calculated to inform all members in good standing sufficient time to nominate the candidates of their choice. What is reasonable may vary depending on the size of the local association, the number of worksites, and the time of year.

To save time and money, the nominations notice can, and frequently is, combined with the notice of elections, described below. If notices are combined, care must be taken to make sure that requirements for both the nominations notice and the elections notice are followed. **See Appendix "A" for a sample letter announcing nominations and elections.**

## **6. MAKING NOMINATIONS**

Open Nominations are required.

Open nominations are guaranteed by OEA Bylaw 9-2. This can be accomplished by holding a nominations meeting open to the membership, or by requesting written declarations of nominations or intent to seek office.

If the method is to hold a nominations meeting, it is customary, though not legally required, that the president relinquish the chair to someone who is not going to be a candidate to conduct the nominations. If nominations are scheduled for a regular or special membership meeting, they may not be cancelled for lack of a quorum, although a local association may withhold conducting other regular business in conformity with its local constitution and bylaws. The Chair opens nominations by stating: "Nominations are now open for the office of \_\_\_\_\_." It is customary to start with the highest office open for nomination. A person nominating a candidate needs no second. After a person has been nominated, the Chair should state \_\_\_\_\_ has been nominated for the office of \_\_\_\_\_, are there any other nominations for \_\_\_\_\_? The procedure should continue until three consecutive calls for "other nominations" go unanswered. The Chair should then declare the nominations for that office closed and proceed to the next office. No motion is needed to close 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.

It is also permissible to establish a nominations committee to seek out candidates for office, especially in those situations where members need to be encouraged to run for office. However, even where there is a nominations committee, there is still the need to conduct a nominations process where all members have the right to nominate candidates of their choice.

Provisions for write-in candidates in local association elections are neither required nor prohibited by law or the OEA or NEA Constitutions. The decision to allow write-in candidates is left to the local association. The matter should be set forth in the local association's constitution and bylaws.

## **7. UNCONTESTED ELECTIONS**

An election for a position is not required if only one candidate has been nominated for that position after the open nomination process has been completed.

Unopposed candidates can be declared elected by the election committee or elected by acclamation at the conclusion of the open nominations meeting. The specific process should be set forth in the local association's bylaws.

Again, it is important that the open-nominations process be completed prior to declaring an unopposed candidate elected to the position nominated. Also, please note that if a local association allows write-in candidates, an election must be held even if only one person is nominated.

## **8. THE ELECTION COMMITTEE**

The Election Committee must protect the integrity of the elections and the secrecy of the ballot.

An election committee is a membership committee charged with the responsibility to protect the integrity of an election or vote and ensure that an election is conducted in accordance with the local, state and national association constitutions. The election committee can be a permanent, on-going body charged with the responsibility of conducting all important votes, such as contract ratification or dues increases, as well as the election of officers. It is usually three to five members in size. Like any other committee, it is ordinarily appointed by the local association president with the approval of the local association executive board. There are, however, some important differences. The local president cannot serve on an election committee in an ex officio capacity where he/she is a candidate, nor can any other candidate for office serve on the elections committee. It is advisable to appoint persons to the election committee who are not closely aligned with a particular candidate or faction.

The committee may make minor rules regarding such matters as the hours of voting, unless those matters are covered by the local association's constitution or decided by membership vote. Aside from such matters, the committee must be prepared to handle nine basic duties:

- a. To make sure that each nominee has been offered the opportunity to decline the nomination.
- b. To hear and decide any challenge which may be made concerning the eligibility of any nominee.
- c. To make sure that proper notice of the election is given.
- d. To prepare or supervise the preparation of the ballots.
- e. To 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 setting up one or more polling places where members may receive their ballots, mark them, and deposit them in a ballot box. In some local associations, it may mean mailing ballots to the membership and receiving them by return mail.
- f. To count the ballots and certify the results of the election.
- g. To hear and decide any protests which may be filed concerning the conduct of the

election.

- h. To make a report to the membership concerning the results of the election and, subject to membership acceptance, the decisions made on any protests.
- i. To maintain order and decorum during the ballot counting process.

Unless the matter is addressed in the constitution or bylaws of the local association, it may be appropriate for the elections committee to establish a cut-off date for voter eligibility. Such a date is frequently linked to the latest date prior to the election that a person can have dues deducted from his or her paycheck. It is advisable to make this decision early and notify bargaining unit employees of this cut-off date well in advance of the election. It is also permissible to allow persons to vote who sign membership cards immediately prior to the vote. The issue is up to the local association to decide.

## **9. CHALLENGES**

Questions concerning a right to seek or be nominated for office must be resolved quickly.

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 NEA, OEA or the local association. An example of a valid basis for a challenge is that the nominee is not a member or has not been a member for the length of time required by the local association's constitution and bylaws to hold the office for which he/she has been nominated.

Any challenge that is raised must be referred immediately to the election committee. The committee should meet as quickly as possible, offering both the challenger and the affected nominee the opportunity to be heard. The committee also has the absolute right to examine official records affecting the challenge. The committee must then decide the matter and report its decision to the appropriate governing body before the election takes place. The committee's decision is subject to acceptance or rejection by the appropriate governing body. Any appeal of the appropriate governing body's decision cannot be used as a basis for delaying the election.

## **10. ELECTION CAMPAIGNING**

No association funds can be spent to support a candidate.

Candidates must be afforded equal access to union publications.

There are two basic rules to remember about election campaigning. They are:

- a. No association funds can be spent, directly or indirectly, on campaigning for association office. Loaning money to a candidate to help the candidate raise money for his or her campaign is as unlawful as giving the money to the campaign directly. "Association funds" includes supplies, use of equipment, such as copying machines or telephones, or use of association staff. It should also be noted that it is illegal for an employer to give money to a candidate running for office in a local association which is the exclusive representative of employees of the employer.
- b. No publication of any kind which is sponsored by or supported by the association can make any endorsement or otherwise support any candidate for association office. This does not prohibit the publication of biographical information about or campaign

statement by the candidates so long as all candidates are afforded equal access to the publication.

Also, the Landrum-Griffin Act allows any member who has been nominated for office or who announces the intention to run for office, the right to a reasonable number of mailings by the local association to the membership before the election. This mailing is not to be made at the association's expense.

This third rule is occasionally misunderstood. All the association is required to do is address and mail the material. The candidate must prepare the material to be mailed, furnish the envelopes, do the stuffing and sealing and affix the stamps or pay for the metered mail charge. If there is an expense connected with the addressing, it must be borne by the candidate. Board of Directors Policy 400.05 permits membership lists to be used only for official OEA business. A candidate is not entitled to a mailing list for his/her own use.

Any candidate is entitled to inspect the local association membership list. This right is only to ensure that the membership lists are accurate. The candidate is not entitled by law to have or make a copy of any membership list.

No campaign leaflets or signs should be displayed at the polling place itself. A local association can make additional rules concerning campaigning, but any rule must be reasonable and apply equally to all candidates.

#### **11. NOTICE OF ELECTION**

Members must be notified in a manner reasonably calculated to reach all members in sufficient time to execute their vote.

OEA and NEA Representative Assembly delegates are subject to specific Landrum-Griffin requirements.

Section 4117.19 (C) (4) of the Revised Code provides that a local association's constitution or bylaws must "require periodic elections of officers by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, such office, and vote in elections..." In all elections except for those concerning OEA or NEA representative assembly delegates and alternates, this means that members must be notified of the time, date and place of the election in a manner reasonably calculated to inform the member. Posting, use of school mail, publication in a newsletter are all appropriate means of notification if they are reasonably calculated to inform the member.

The election of OEA and NEA representative assembly delegates and alternates is controlled by the Landrum-Griffin Act, which specifically requires that the notice of election must be **"mailed to each member at the member's last known address"** at least **fifteen days** before the election date. **Posting or word of mouth is not sufficient.** Publication in the local association newsletter is permitted so long as the newsletter is mailed to the home address of each member. The notice should state the date, time and place of the election, and also list the offices to be voted on, and if possible the list of candidates. If more than two candidates are running for a single office, it is wise to include in the notice the date, time and place of any run-off election which may be necessary.

If a local association's constitution and bylaws provide for officers to be automatic delegates to OEA or NEA representative assemblies, that officer must have actually been elected by the membership in order to participate in the election of OEA or NEA officers. Accordingly, if a local

association officer has been appointed to fill the unexpired term of an elected officer, he or she must be elected as a delegate in order to fully participate in an OEA or NEA representative assembly. In addition, if the person is a delegate to an OEA or NEA representative assembly by virtue of the office he/she holds, that officer must occupy the specific office at the time of the representative assembly. Otherwise, the person must be elected by the membership to serve as a delegate.

**See Appendix "A" for a sample notice of nominations and election.**

## **12. PREPARATION OF THE BALLOTS**

Include only necessary information. Make instructions clear and simple.

The ballot should be headed "Official Ballot" followed by the name of the local association 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 some similarly simply-worded directions. It is also advisable to add "Do not sign your name" and "do not make any other marks on this ballot."

The various offices to be voted on should be listed one at a time and after designation of each office, the words "vote for one" or "vote for three" or "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.

Put only necessary information on the ballot. Extraneous information is at best confusing and at worst illegal. Do not print anything on the ballot to indicate which candidates are the incumbents. This can be construed as a campaign statement. Also do not print anything on the ballot to indicate the candidate's job title, work location, etc., unless this information is necessary for the voter to know. For example, if a local association allots three seats on the executive board to school support personnel and three to teachers, it may be necessary to add the words school support personnel in parentheses after the name. Absent such a purpose, any similar identification could be construed as a use of the ballot itself for campaign purposes.

The election committee is responsible for seeing that all names are correctly spelled on the ballot. The best way to do this is to contact the candidate personally, and ask for a statement, preferably in writing as to how the candidate's name is to be placed on the ballot.

Robert Louis Stevenson may want to be listed on the ballot as Robert Louis Stevenson, Robert L. Stevenson, R. Louis Stevenson, R. L. Stevenson or Bob Stevenson. He should be given the opportunity to make that decision as well as to give the accurate spelling of his name.

There is no one proper way for names to be ordered on a ballot. Some permissible ways are: 1) in order of nomination, 2) alphabetical, and 3) by drawing lots. As a matter of caution, it is recommended that the method of determining name order be decided before nominations have taken place rather than after, to avoid unnecessary conflict.

The actual printing of the ballots may be done by a commercial printer or an office copying machine, or any other method that will produce clear, easily read ballots. The number of ballots printed should substantially exceed the number actually needed, to take into account the possibility of spoilage during the election itself. **It is the responsibility of the election committee to control the ballots. It should: 1) determine the number of ballots to be printed, 2) make sure that the exact number are in fact printed, and 3) take charge of the**

**ballots immediately upon completion of the printing, safeguarding them until the election takes place.**

**See Appendix "B" for an example of a properly formatted ballot.**

### **13. ELECTION PROCEDURES**

The secret ballot must be protected at all times.

Members must be afforded a reasonable opportunity to vote.

The two safeguards for fair and democratic elections are:

- 1) that the election is conducted by **secret ballot**, and
- 2) that all local association members be afforded a **reasonable opportunity to vote**.

The secret ballot requirement rarely causes disagreement. Voting can be done in booths or at isolated tables. Almost any method which allows a voter to mark the ballot without another person observing how he/she marks it is acceptable. After the ballot is marked, the ballot should be deposited by the voter directly into a ballot box or other container where it is mixed with other ballots and the voter's right to secrecy is preserved.

The second requirement can cause problems, especially in larger local associations, or associations with a dispersed membership, or associations with membership working different shifts.

a. On-site elections are preferred.

Whenever possible, it is advisable to set up specific hours for voting. If voting is scheduled at a regular or special membership meeting, it may not be cancelled or postponed due to a lack of a quorum, although other regular business may be suspended in conformity with a local association's constitution and bylaws. However, based on a rule of reasonableness, circumstances such as a snow day or other act of God, may justify the rescheduling of an election. It is essential 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 to work from a list of members as of the eligibility cut-off date who are current members as of the date of election and have each voter identify him/herself and sign for his/her ballot.

Where local associations have members working more than one shift, the voting hours must be of sufficient time to allow members on all shifts a reasonable opportunity to vote. Where local associations have more than one voting location, great care must be taken to preserve the integrity of the election. This includes the following precautions:

1. Each member should be notified of his/her proper voting location.
2. Each voting location must, at all times, be attended by the election committee member or other member designated by the election committee.
3. The attending election committee member or designee must keep a written list of which members have voted. Preferably, the election committee member or designee should have a list of members for that location that can be checked off after each member votes.
4. Each voting location should have a ballot box prepared by the election committee.



5. At the conclusion of voting, the ballot box should be sealed. Normally, if the box is cardboard, the box is taped and then the names of the election committee member or designee, and any observer is signed across the tape.

After the ballot box is sealed, the box should be immediately transported the place where the ballots are to be counted. Election observers are entitled to keep the ballot box in sight at all times during transportation.

If ballots are to be counted at the location, with the resulting tally telephoned into a central location, then all provisions set forth in Sections 13 through 15 of this manual must be followed at each location.

Many local associations prefer to distribute ballots to eligible voters either personally or through the school mail on election day. This is permissible so long as a double-envelope ballot system is used and the ballot, once complete is cast in the ballot box only by the voter at the designated time for voting.

Two types of solutions to voting problems are not permitted. First, **there can be no proxy voting**. Every member has only one vote and no member can authorize another to cast his or her ballot. Second, at times a local association may want to make it easy to vote by having a member or building representative collect marked ballots at a work site for later deposit in the ballot box. This is not permitted because it destroys the secrecy of the ballot. The voter must place his or her ballot directly into the ballot box. It cannot be handed to another person for later delivery.

**See Appendix "C" for an on-site election checklist.**

**See Appendix "D" for an on-site election using the double-envelope system.**

- b. Mail ballot elections may be necessary.

Voting by mail should only be done when it is necessary to provide all local association members with the reasonable opportunity to vote. Voting by mail should be avoided whenever possible because membership mailing lists are almost always inaccurate and mail delivery is sometimes slow.

The mail ballot cannot be made available to only those members who are not able to vote in an on-site election. Balloting by mail must be done by all members or by none.

If elections need to be conducted by mail, see **Appendix "E"** for recommended procedures.

- c. Online elections may be conducted under extreme circumstances.

An online election can only held if the principles of a fair election are followed. Furthermore, NEA has provided guidance that online elections should not be held for NEA and OEA delegates to the Representative Assembly because the online format may not comply with the requirements of Landrum-Griffin Act. If you have specific questions about a vendor offering online elections, contact the OEA Elections and Conference Coordinator and refer to "Guidance for the Conduct of Online Elections" in **Appendix "F"** of this manual.

- d. Absentee ballots are permitted but discouraged.

Local associations may allow for absentee balloting. Provisions and restrictions for absentee balloting must be set forth in the local association's constitution and bylaws. If absentee balloting is allowed, provisions should include the following minimum requirements set forth in **Appendix "G"**.

#### **14. OBSERVERS**

Observers are a safeguard for fair elections.

Observers cannot campaign as they carry out their functions.

Each candidate is entitled to have an observer of his or her own choosing at the polls and at the counting of the ballots. The candidate may not serve as an observer during the period when voting is actually taking place; this may be construed as campaigning. The candidate may be present during the counting of the ballots.

The observers are there only to observe. They may not wear insignia in support of or against a candidate. They may not pass out leaflets. They may not discuss the election with persons coming to vote.

In addition to supervising the actual voting and counting of the ballots, observers have the right to inspect the ballot box up to the time that voting is to take place.

They have the right to stay in the room where voting is taking place throughout the hours established for voting. They have the right to observe the counting closely enough to verify the accuracy of the tally. They have the right to challenge any voter whom they think does not have the right to vote. Observers have the right to take any notes they wish and they can make their own list of those who voted. Additionally, observers have the right to call to the attention of the election committee any violation of proper procedure. They have the right to keep the ballot box under actual observation until it is opened. Finally, they have the right to examine, but not to handle, any suspect ballot and maintain their own tabulation of the ballot count.

#### **15. CHALLENGED VOTERS**

Questions concerning a voter's right to vote should be resolved in a way which allows the vote to be cast, then put aside in secrecy, to be resolved if the questioned vote will affect the outcome of the election.

Occasionally, a person will attempt to vote and a question of eligibility arises. Sometimes, the person has forgotten his/her identification and is unrecognized by anyone on the elections committee or any of the observers. At other times, the person's name may not appear on the membership list. If the person's identity or membership cannot be resolved to the satisfaction of the elections committee, the person should be allowed to mark a ballot (in secrecy), which is then sealed in an envelope with the person's name on the outside. The envelope should then be placed in the ballot box or in a separate container until the challenge is resolved.

## 16. COUNTING THE VOTES

Count the vote when the intention of the voter can be ascertained.

Count the vote using tools which ensure an accurate count.

Preserve all records of the election and ballots for a period of one year.

The election committee should first attempt to resolve challenged ballots. Each challenged ballot must be taken up separately. Without opening the envelope, the election committee must make a decision as to whether or not the ballot should be counted. If the committee decides to count the ballot, the envelope should be opened and the unexamined ballot deposited in the ballot box. If the committee decides to not count the ballot, the ballot should remain sealed in its envelope. The committee's reasons for not counting the ballot should be written on the envelope. The envelope, with the ballot inside, should be kept as part of the records of the elections.

In counting votes, it is best to have two committee members examine the actual ballots, with one of the two calling off the names of those who received votes on a particular ballot. Two other committee members should keep separate records of the votes by making a mark after each name on a list of the candidates that is called a tally sheet. **An example of a tally sheet is attached as Appendix "G"**. Periodic checks should be made of the two tally sheets to make sure their counts agree.

Questions are frequently raised as the ballots are being counted concerning the validity of particular ballots. The following rules apply:

- a. Such deviations from the instructions on the ballot as making a check mark instead of an "X" does not void the ballot. If the intent of the voter is clear, count the vote.
- b. If the voter has signed his/her name to the ballot, void the entire ballot.
- c. If a ballot is partly spoiled, the entire ballot is not voided. For example, if the voter voted for two candidates for president, the ballot is void for that office. But if the same voter voted for only one candidate for secretary-treasurer, the vote for that office should be counted.
- d. Keep a record of the number of totally void or totally blank ballots.

Determination of the election shall be based on the number of valid ballots cast.

The final election results should be placed in written form and signed by the members of the election committee. The committee may ask the observers to sign the report, but this is not required and the observers are free to refuse to sign.

All ballots and records of the election must be kept for a period of one year. The OEA should be promptly notified in writing of the election results. A copy of a sample ballot should be included for elections concerning OEA and NEA representative assembly delegates and alternates.

## 17. PROTESTS

Local associations should establish fair and expedient local procedures for resolving disputes which may arise concerning the conduct of an election.

An election should only be overturned when a proven election irregularity is such that it would affect the outcome of the election.

Occasionally, complaints can arise concerning the conduct of a local association election. These complaints are traditionally called election protests. **It is recommended that local associations establish local procedures to hear and resolve such protests.** Such procedures should set forth time limits for filing protests. A ten-day time limit is considered reasonable. Such procedures should also establish the body that hears the protest. This body can be the election committee, an officer or group of officers, or the membership body. Any procedure should offer to the protester and the affected candidates the opportunity to be heard and present their position. Only irregularities which affect the outcome of an election are grounds for voiding the election results and holding a second election.

Protests not resolved at the local association level may be appealed to the OEA Secretary Treasurer and the matter will be investigated in accordance with Board of Directors Policy **1200.04**

#### **18. VOTING ON FACT-FINDER'S REPORTS AND COLLECTIVE BARGAINING AGREEMENTS**

Local associations have flexibility to determine their procedure for the ratification of collective bargaining agreements.

Such procedure should be set forth in the local association's constitution or bylaws.

##### **a. Voting on a tentative agreement.**

When a local association successfully negotiates a tentative collective bargaining agreement, the agreement must be properly ratified. Neither federal nor state law mandates how a tentatively agreed-to contract must be ratified. Ratification votes are usually held at a special membership meeting. Local associations should limit the voting only to OEA members who are in the affected bargaining unit. Non-members and fair share fee payers should not be permitted to vote. Voting by secret ballot, by roll call, by show of hands, or by acclamation are appropriate means of ratification. A specific method of ratification may be set forth in the local association's constitution or bylaws. At a minimum, proper parliamentary procedure should be followed to determine the will of the membership.

Whenever a vote is to be conducted to ratify a collective bargaining agreement, notice must be provided to all members of the date, time and place of the vote. The notice does **not** have to be mailed to each member's house. Often this is too time consuming and expensive. Nevertheless, the notice must be reasonably calculated to inform all members. Posting on bulletin boards and handing out flyers may in certain circumstances be an appropriate means of notification. It is often wise to alert members in advance, through newsletters or orally at meetings, that short notice may be given for a contract ratification vote, and that member should take care to be apprised of events.

Members should be notified of the contents of the tentative bargaining agreement in its entirety. Obviously, if it is possible to make copies of the tentative agreement, this is preferred. However, in some cases such copies cannot be provided. When it is not practical to make such copies, a summary of the tentative agreement is also an appropriate method of providing information, as is an oral explanation of the agreement by the negotiators at a membership meeting. Persons conducting a ratification meeting should make sure that information about the tentative agreement should comment on each subject addressed by the tentative agreement, even if that comment is

"no change". Intentional omission of such information is not permitted. Local associations through policy or bylaws can establish what information must be provided to the membership prior to a ratification vote.

Any ratification vote should take place at the end of the ratification meeting, or after members have had time to read the agreement, a summary, or listen to an explanation. It is advisable that members be allowed to ask questions about the agreement.

When the vote is to be taken, the choice must be clear to ACCEPT or REJECT the tentative agreement. If the vote is by ballot, the ballot must provide two choices, to ACCEPT the tentative agreement or to REJECT the tentative agreement. There can be no middle ground. For example, it is not possible to vote for Article One but against Article Two. It is also not possible to vote for the tentative agreement with a contingency, such as accepting the agreement if management raises its wage offer by one-half percent.

Similarly, if a vote is taken by motion, the motion must be clearly worded to ACCEPT or REJECT the tentative agreement. Any other motion dealing with how to act on a tentative agreement is out of order.

Any vote should be accurately recorded and certified in the minutes of the meeting.

Upon ratification of the agreement, a copy of the signed agreement should be sent to OEA Research, Division of Organizational Administration and a second copy mailed to the State Employment Relations Board.

b. Voting on a fact-finder's report.

Votes on fact-finder's reports are subject to technical statutory requirements. Contact your labor relations consultant before beginning the fact-finding process.

Fact-finding is a mechanism established by the Ohio Public Employees Collective Bargaining Law for resolving disagreements between unions and employers who have not been able to reach tentative agreement during collective bargaining. The fact-finding process operates under strict timelines. These timelines are set forth in Revised Code Section 4117.14 and Administrative Rule 4117-9-05. The requirements and timelines for fact-finding can be confusing and complicated; in addition, the entire statutory procedure can be changed through a mutually agreed to alternative dispute (MAD) resolution mechanism. Thus it is recommended that your labor relations consultant is contacted before the local becomes involved in the fact-finding process.

Ohio Revised Code Section 4117.14 requires that local associations hold a **secret ballot** election to accept or reject the fact-finder's report and recommendation within seven days from the day that the report and recommendation is served. Administrative Code Section 4117-9-05 (M) requires local associations to take specific actions to comply with the Revised Code.

A local association immediately upon receipt of the fact-finder's report must "make available, by posting or by other method reasonably calculated to inform the members" a copy of the complete fact-finder's report and a notice of the date(s), time(s) and place(s) where members can vote to accept or reject the fact-finder's recommendations. Non-members and fair share fee payers are not entitled to participate in the voting. **This election must be conducted by secret ballot.** The ballot must contain a choice to "approve" and a choice to "reject" the fact-finder's recommendations. The actual words "approve" or "reject" must appear on the ballot. Voting by proxy is not permitted. Ballots must be tallied immediately upon conclusion of the voting. Written

verification of the vote tally must be served upon the State Employment Relations Board no later than twenty-four hours after the tally of the ballots and in no event later than twenty-four hours after the expiration of the seven-day voting period. A copy of the written verification must be served on the employer.

**For your reference, a copy of Administrative Rule 4117-9-05 (M) is attached as Appendix "H" and should be directly referred to when conducting votes on fact-finder's recommendations.**

The penalty for failure to comply with these rules is substantial. Failure to conduct a vote will lead to an automatic acceptance of the fact-finder's recommendations. A failure to provide SERB with written verification of the ballot tally within the required time limits will lead to an automatic acceptance of the fact-finder's recommendations. A failure to serve a copy of the written verification on the employer will lead to an automatic acceptance of the fact-finder's recommendations.

A three-fifths vote of the total membership is required to reject a fact-finder's report. When both the local association and the employer fail to reject the fact-finder's recommendations, the recommendations are deemed accepted and must be incorporated into the collective bargaining agreement.

#### **19. CONCLUSION**

This manual is intended to provide concrete guidelines to assist local leaders in administering internal election and contract ratification processes. Of necessity, this manual cannot anticipate every problem. If a problem arises which this manual does not clearly address, you should contact your OEA labor relations consultant for assistance.

**APPENDIX A**

**SAMPLE LETTER ANNOUNCING NOMINATIONS AND ELECTION**

Dear Association Member:

The annual association election will be conducted:

DATE: May 1 and 2, 1988

TIMES: 3:00 p.m. to 5:00 p.m. each day

SITES: All elementary, middle school, & high school buildings

The following positions are open for nomination:

President - 2-year term

Vice-President - 2-year term (term commences on \_\_\_\_\_)

OEA RA Delegate - 2-year term (2 positions) (Term commences on \_\_\_\_\_)

OEA RA Alternate - 2-year term (2 positions) (Term commences on \_\_\_\_\_)

Board of Director, Representing Third World Persons - 2-year term (Term commences on \_\_\_\_\_)

Board of Director at-large - 2-year term (Term commences on \_\_\_\_\_)

You may nominate yourself or another member by placing the name and position nominated for in writing and mailing to Sally Smith, Election Chairperson, 12345 River Street, Anywhere, Anystate 11111. Nominations must be received no later than March 1, 1988. Open nominations will also be conducted at the general membership meeting held on February 15, 1988, 3:30 p.m., in the High School Auditorium.

I personally encourage you to run for office or to nominate another member. Only through our volunteer efforts, each taking a turn, will we be able to continue building a strong, active, and successful local association. We've come a long way, but we've a long way to go and we need everyone to pitch in and help.

Sincerely yours,

Vivian Anyone  
President

**APPENDIX B**

1988 ELECTION OF ABLE EA/ESP OFFICERS

OFFICIAL BALLOT

PRESIDENT, OEA RA DELEGATE - Two Year Term (September 1, 1988 -August 31, 1990)

PRESIDENT - Two Year Term (September 1, 1988-August 31, 1990)

[ ] RON REAGAN

[ ] JIM CARTER

\* [ ]  
(Write-In)

VICE-PRESIDENT - Two Year Term

[ ] JERRY FORD

[ ] RICH NIXON

\* [ ]  
(Write-In)

SECRETARY/TREASURER - Two Year Term

[ ] LEN JOHNSON

[ ] JACK KENNEDY

\* [ ]  
(Write-In)

OEA RA DELEGATES - Two Year Term - 3 Positions (Elect 3):

[ ] D. EISENHOWER                      \* [ ]  
(Write-In)

[ ] H. TRUMAN                              \* [ ]  
(Write-In)

[ ] FRANK ROOSEVELT                      \* [ ]  
(Write-In)

[ ] HANK HOOVER

\*Write-in candidates are optional - see page 3 of Elections Manual



## **APPENDIX C**

### **ELECTION CHECKLIST - ON-SITE ELECTION NOT USING DOUBLE ENVELOPE SYSTEM**

THIS CHECKLIST AND SAMPLE ELECTION PROCEDURE IS FOR AN ELECTION THAT WILL BE CONDUCTED AT A GENERAL MEMBERSHIP MEETING OR A SINGLE LOCATION. THE SAME CONCEPT WOULD APPLY IF THE ELECTION WAS CONDUCTED AT SEVERAL CENTRAL LOCATIONS. IF NOT ELECTING AN OEA OR NEA DELEGATE, THE NOTIFICATION BY U.S. MAIL MAY BE ELIMINATED.

(Sample Timeline)

- \_\_\_\_\_ Develop a comprehensive timeline to include your specific dates.
- December 1    Appoint Election Committee (also Nominations Committee if desired)
- January 15    Construct an election timeline. Review timeline with president.
- February 1    Provide notice of nominations and elections in manner reasonably calculated to reach all members. This notice should include:
- Date, time and location of election
  - List of positions to be elected
  - Nominations information
  - Absentee ballot provisions (optional)
- Exception: For OEA and NEA Representative Assembly elections only, the notice of election must be sent by regular U. S. mail to the last known home address of each member at least fifteen days prior to the date of election.
- March 1        Close of nominations
- March 7        Briefing meeting with candidates
- March 15       Voter eligibility cut-off (must be a member by this date)
- April 1        Announce candidates & election details in local newsletter.
- April 7        Ballots, and all election materials printed April 14.  
Organize all election materials
- April 15       (Optional) Distribute biographical statements to eligible voters
- April 30       (Optional) Deadline for return of absentee ballots
- May 1         Election conducted at general membership meeting
- May 1         Count ballots

May 6 Report election results in local newsletter

May 7 Send election results to OEA Central Office

### **NOMINATIONS**

- \_\_\_\_\_ A. The election committee should be responsible for the nominations process.
- \_\_\_\_\_ B. Typical methods of nomination include:
  - \_\_\_\_\_ 1. At a membership meeting.
  - \_\_\_\_\_ 2. By petition. (There is no need to require a specific nomination form. Be cautious about requiring too many signatures or instituting other requirements.)
  - \_\_\_\_\_ 3. By written notification.
  - \_\_\_\_\_ 4. Combination of the above.
- \_\_\_\_\_ C. Notification of nomination needs to be made reasonably available to all members. Typical methods of notification include:
  - \_\_\_\_\_ 1. Posting of notice on bulletin board in all work sites.
  - \_\_\_\_\_ 2. Placement in local newsletter.
  - \_\_\_\_\_ 3. Announcement at meeting(s). (If this is the only option used, the meeting announcement would need to be distributed to all members, along with a statement that nomination information would be disseminated at the meeting. This option should be used in conjunction with one of the other methods.)
  - \_\_\_\_\_ 4. Mailing to each member at home. (Since notice of the election needs to be sent to the home address of each member through the U. S. mail if electing OEA or NEA RA delegates, the notification of nominations could be included with this mailing.)
  - \_\_\_\_\_ 5. Combination of the above.
- \_\_\_\_\_ D. The nomination information provided to members must include:
  - \_\_\_\_\_ 1. Positions to be elected.
  - \_\_\_\_\_ 2. Specific method of nominating and being nominated.
  - \_\_\_\_\_ 3. Date, time, and place for submitting nominations.
- \_\_\_\_\_ E. A member nominated for a position should not be considered an official candidate until he/she has accepted the nomination. It is recommended that this acceptance or rejection should be in writing.
- \_\_\_\_\_ F. It is critical that no nominations be accepted after the nomination deadline has passed, otherwise, an opposing candidate who was timely nominated would have a valid objection to the election.

- \_\_\_\_\_ G. Once the nomination information has been provided to the members, a nomination committee can begin soliciting candidates.

### ***ELECTION PROCEDURE***

- \_\_\_\_\_ A. Construct an election timeline. This should be as detailed as possible. At the same time, it is helpful to decide who will do what and when.
- \_\_\_\_\_ B. Review the timeline with the president. This is not required, but it may prove helpful to have the president or someone else review your election plans.
- \_\_\_\_\_ C. Provide the following information in a manner reasonably calculated to reach all members.
- \_\_\_\_\_ 1. List of positions to be filled by election.
- \_\_\_\_\_ 2. Date, time, and location of the election
- \_\_\_\_\_ 3. (Optional) Explanation of absentee ballot procedures.

Exception: For OEA and NEA Representative Assembly delegate elections only, the notice of election must be sent by regular U. S. mail to the last known address of each member at least fifteen days prior to the date of election.

Note: Appendix A contains a combined notice of nominations and elections to reduce paperwork and costs.

- \_\_\_\_\_ D. In addition, it may be helpful to provide this information in a local newsletter or post a notice on bulletin boards.
- \_\_\_\_\_ E. Prepare a list of all work sites and the election official(s) who will be responsible for conducting the election at that site as well as the election times. The rule of thumb is that all eligible voters must have a reasonable opportunity to vote.
- \_\_\_\_\_ F. It is usually helpful to meet with the candidates and review the election procedures and to answer questions.
- \_\_\_\_\_ G. Construct the voter eligibility list which, at a minimum, must include the names and home addresses of those who were active or life OEA/NEA members as of the eligibility cut-off date. Any members on leave or layoff are not eligible unless they have continued their membership and are paying dues. It is most helpful if this list is in alphabetical order and includes the assigned work site of each member.
- \_\_\_\_\_ H. Once the list is prepared, it may be a good idea to inform the candidates that they have a right to review (not copy) the list. Their review of the list may help catch any errors. Also, an opportunity to review the list prior to the election may help prevent complaints after the election.

- \_\_\_\_\_ I. Prepare all election materials in advance:
  - \_\_\_\_\_ 1. Instructions for election officials
  - \_\_\_\_\_ 2. Ballots
  - \_\_\_\_\_ 3. Biographical information (optional)
  - \_\_\_\_\_ 4. Tally sheet for counting ballots
- \_\_\_\_\_ J. (Optional) Distribute biographical information at least several days prior to the date of the election. This may be accomplished through a local newsletter or by having building representatives distribute this information.
- \_\_\_\_\_ K. Train election officials and provide them with all needed election materials (ballots, tally sheets, voter eligibility list, etc.).
- \_\_\_\_\_ L. The process for voting is as follows:
  - \_\_\_\_\_ 1. The polls will open on time and will close on time. Voters standing in line as the polls close will be allowed to vote. A voter joining the line after the scheduled closing will not be allowed to vote.
  - \_\_\_\_\_ 2. Each voter shall have his/her name checked off the eligibility list and will then be handed a ballot.
  - \_\_\_\_\_ 3. The voter will then mark the ballot and place it in the locked ballot box.
  - \_\_\_\_\_ 4. A voter whose name is not on the eligibility list, but who insists he/she is an eligible voter shall be provided a ballot and a blank envelope. The outside of the envelope will be marked by the election official with the person's name, the statement "CHALLENGED BALLOT" and the reason for the challenge. The person will mark the ballot, seal it in the envelope, and place the envelope in the ballot box. All such challenges will be resolved prior to counting the ballots.
- \_\_\_\_\_ M. At the close of the election, the ballots will be counted.

### ***COUNTING AND TALLYING THE BALLOTS***

- \_\_\_\_\_ A. The counting should be done openly and any member is allowed to observe the counting process. At least two members of the local election committee should conduct the counting and tallying process.
- \_\_\_\_\_ B. If any absentee ballots have been received, check the names against the eligibility list. If eligible, open the envelope and place the ballot in the ballot box. If for some reason the absentee ballot is ineligible, set it aside as a challenged ballot. CHALLENGED BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.
- \_\_\_\_\_ C. Unlock and empty the ballot box.

- \_\_\_\_\_ D. The status of any challenged ballots must be resolved. If it is ruled that a challenged ballot is actually a valid ballot (don't bend or change the rules), then open the envelope and add the person's ballot to the rest of the ballots. If it is determined that a challenged ballot is not an eligible ballot, set it aside and write the reason for the challenge on the envelope. **CHALLENGED BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.**
  
- \_\_\_\_\_ E. Count the ballots by using the tally sheet which the election committee prepared in advance.
  
- \_\_\_\_\_ F. When counting ballots, if a mark is outside the box, if there is an erasure, or if the ballot contains some other discrepancy, the local elections committee must make a judgment as to how or whether to count it. The rule of thumb is to count it if the intent of the voter is apparent and to not count it if the intent is unclear.
  
- \_\_\_\_\_ G. Announce the results to the membership.
  
- \_\_\_\_\_ H. Forward the election results to the OEA Central Office:
  - Ohio Education Association
  - 225 East Broad Street, Box 2550
  - Columbus, OH 43216
  
- \_\_\_\_\_ I. Keep the ballots, unopened challenged ballots, tally sheets, and copies of all other election materials for at least one year.

**APPENDIX D**

**ELECTION CHECKLIST - ON-SITE ELECTION  
CONDUCTED AT ALL WORK SITES USING DOUBLE ENVELOPE SYSTEM**

THIS CHECKLIST AND SAMPLE ELECTION PROCEDURE IS FOR AN ELECTION THAT WILL BE CONDUCTED AT EVERY WORK SITE USING THE DOUBLE ENVELOPE SYSTEM. THE EXAMPLE ALSO ASSUMES THAT OEA OR NEA RA DELEGATES WILL BE ELECTED WHICH NECESSITATES ADHERENCE TO THE VARIOUS FEDERAL REQUIREMENTS IN CONDUCTING THE ELECTION. IF NOT ELECTING AN OEA OR NEA RA DELEGATE, THE NOTIFICATION BY U. S. MAIL MAY BE ELIMINATED.

(Sample Timeline)

\_\_\_\_\_ Develop a comprehensive timeline to include your specific dates.

December 1 Appoint Election Committee (also Nominations Committee if desired)

January 15 Construct an election timeline. Review timeline with president

February 1 Provide notice of nominations and elections in manner reasonably calculated to reach all members. This notice should include:

- Date, time, and location of election
- List of positions to be elected
- Nominations information
- Absentee ballot provisions (optional)

Exception: For OEA and NEA Representative Assembly elections only, the notice of election must be sent by regular U. S. mail to the last known home address of each member at least fifteen days prior to the date of election.

March 1 Close of nominations

March 7 Briefing meeting with candidates

March 15 Voter eligibility cut-off (must be a member by this date)

April 1 Announce candidates & election details in local newsletter.

April 7 Ballots, envelopes, biographical information (optional), and all election materials printed April 14 Assemble & package election materials.

April 15 (Optional) Distribute biographical statements to eligible voters

April 25-26 Train election officials & distribute election materials

April 30 (Optional) Deadline for return of absentee ballots

May 1-2 Election at each work site

- May 2            Count ballots
- May 6            Report election results in local newsletter
- May 7            Send election results to OEA Central Office

***NOMINATIONS***

- \_\_\_\_\_ A. The elections committee should be responsible for the nominations process.
- \_\_\_\_\_ B. Typical methods of nomination include:
  - \_\_\_\_\_ 1. At a membership meeting.
  - \_\_\_\_\_ 2. By petition. (There is no need to require a specific nomination form. Be cautious about requiring too many signatures or instituting other requirements.)
  - \_\_\_\_\_ 3. By written notification.
  - \_\_\_\_\_ 4. Combination of the above.
- \_\_\_\_\_ C. Notification of nomination needs to be made reasonably available to all members. Typical methods of notification include:
  - \_\_\_\_\_ 1. Posting of notice on bulletin board in all work sites.
  - \_\_\_\_\_ 2. Placement in local newsletter.
  - \_\_\_\_\_ 3. Announcement at meeting(s). (If this is the only option used, the meeting announcement would need to be distributed to all members, along with a statement that nomination information would be disseminated at the meeting. This option should be used in conjunction with one of the other methods.)
  - \_\_\_\_\_ 4. Mailing to each member at home. (Since notice of the election needs to be sent to the home address of each member through the U. S. mail if electing OEA or NEA RA delegates, the notification of nominations could be included with this mailing.)
  - \_\_\_\_\_ 5. Combination of the above.
- \_\_\_\_\_ D. The nomination information provided to members must include:
  - \_\_\_\_\_ 1. Positions to be elected.
  - \_\_\_\_\_ 2. Specific method of nominating and being nominated.
  - \_\_\_\_\_ 3. Date, time, and place for submitting nominations.
- \_\_\_\_\_ E. A member nominated for a position should not be considered an official candidate until he/she has accepted the nomination. It is recommended that this acceptance or rejection should be in writing.

- \_\_\_\_\_ F. It is critical that no nominations be accepted after the nomination deadline has passed, otherwise, an opposing candidate who was timely nominated would have a valid objection to the election.
- \_\_\_\_\_ G. Once the nomination information has been provided to the members, a nominations committee can begin soliciting candidates.

### ***ELECTION PROCEDURE***

- \_\_\_\_\_ A. Construct an election timeline. This should be as detailed as possible. At the same time, it is helpful to decide who will do what and when.
- \_\_\_\_\_ B. Review the timeline with the president. This is not required, but it may prove helpful to have the president or someone else officially review your election plans.
- \_\_\_\_\_ C. Provide the following information in a manner reasonably calculated to reach all members.
  - \_\_\_\_\_ 1. List of positions to be filled by election.
  - \_\_\_\_\_ 2. Date(s), time(s), & location of election.
  - \_\_\_\_\_ 3. (Optional) Explanation of absentee ballot procedure.

Exception: For OEA and NEA Representative Assembly delegate elections only, the notice of election must be sent by regular U. S. mail to the last known address of each member at least fifteen days prior to the date of election.

Note: Appendix A contains a combined notice of nominations and elections to reduce paperwork and costs.

- \_\_\_\_\_ D. In addition, it may be helpful to provide this information in a local newsletter or post a notice on bulletin boards.
- \_\_\_\_\_ E. Prepare a list of all work sites and the election official(s) who will be responsible for conducting the election at that site as well as the election times. The rule of thumb is that all eligible voters must have a reasonable opportunity to vote.
- \_\_\_\_\_ F. It is usually helpful to meet with the candidates and review the election procedures and to answer questions.
- \_\_\_\_\_ G. Construct the voter eligibility list which, at a minimum, must include the names and home addresses of those who were active or life OEA/NEA members as of the eligibility cut-off date. Any members on leave or layoff are not eligible unless they have continued their membership and are paying dues. It is most helpful if this list is in alphabetical order and includes the assigned work site of each member.
- \_\_\_\_\_ H. Once the list is prepared, it may be a good idea to inform the candidates that they have a right to review (not copy) the list. Their review of the list may help catch any errors. Also, an opportunity to review the list prior to the election may help prevent complaints after the election.



- \_\_\_\_\_ I. Prepare all election material in advance.
  - \_\_\_\_\_ 1. Instructions for election officials
  - \_\_\_\_\_ 2. Ballots
  - \_\_\_\_\_ 3. Secret ballot envelope
  - \_\_\_\_\_ 4. Outside envelope
  - \_\_\_\_\_ 5. Biographical information (optional)
  - \_\_\_\_\_ 6. Tally sheet for counting ballots
- \_\_\_\_\_ J. (Optional) Distribute biographical information at least several days prior to the date of election. This may be accomplished through a local newsletter or by having building representatives distribute this information.
- \_\_\_\_\_ K. Assemble and package material for distribution to the election official(s) at each site.
- \_\_\_\_\_ L. Train election officials and provide them with all needed election materials. Especially for large locals, two training sessions will help insure that all election officials have an opportunity to be trained and to receive the election materials for their work site. These sessions should be scheduled a few days prior to the election in case it is necessary to deliver materials to election officials who did not attend the training session(s).
- \_\_\_\_\_ M. Ballots and election materials are distributed to all eligible voters at each site by the election official(s). It is critical that every eligible voter receive a ballot and the related materials. As the "double envelope" system is being used, it is permissible to place the balloting materials in school mail boxes. It is still best to personally deliver this material to each voter.
- \_\_\_\_\_ N. It may be helpful to provide each election official with the names of eligible voters at his/her work site to help insure that all eligible voters receive the election materials.
- \_\_\_\_\_ O. The double envelope system eliminates the need to have voters sign for their ballot materials, eliminates the need for ballot numbering, and eliminates the need for strict accountability of ballots. Using the system, the voter:
  - 1. Marks the ballot.
  - 2. Places the ballot in an envelope which is marked "SECRET BALLOT" on the outside.
  - 3. Places the "SECRET BALLOT" envelope in an "outside envelope" and signs the outside envelope. The outside envelope should contain a place for the signature as well as a note that if the envelope is not signed, the ballot will not be counted. It is also helpful if there is a line for the voter to print his/her name. The printed name will speed up the counting process wherein the signature is checked

against the voter eligibility list.

4. Places this "outside envelope" in the ballot box during the voting period. There is no need to have the election official check off the name of those who are casting their ballots.

- \_\_\_\_\_ P. Ballots are cast during the announced voting times. The election official should be present during voting.
- \_\_\_\_\_ Q. Ballots must be cast in a locked and secure ballot box. During times when balloting is not actually taking place, the ballot box may be placed in a secure location (locked in a room, car, locker, etc.) and does not need to be in the physical presence of the election official except during voting times. It is permissible for the election official to take the ballot box home for safekeeping.
- \_\_\_\_\_ R. Election officials should not be provided with a key to the ballot box. The keys should remain in the possession of someone who is not a candidate and who is not an election official -- perhaps the election chairperson.
- \_\_\_\_\_ S. The election official transports the ballot box to the location designated for the counting of the ballots.

#### COUNTING AND TALLYING THE BALLOTS

- \_\_\_\_\_ A. The counting should be done openly and any member is allowed to observe the counting process. At least two members of the local election committee should conduct the counting and tallying process.
- \_\_\_\_\_ B. Review the voter eligibility list and cross off all names of individuals who were not association members as of the time the ballots were cast, even though they may have been members as of the original eligibility date. To be an eligible voter, an individual must have been a member as of the initial eligibility date and be a member at the time of the election.
- \_\_\_\_\_ C. Any ballot that is challenged shall be set aside and the reason for the challenge will be written on the envelope.
- \_\_\_\_\_ D. Any absentee ballots timely received should be added to one of the ballot boxes. Any untimely ballot should be set aside and marked as a challenged ballot with the reason for the challenge written on the outside of the envelope.
- \_\_\_\_\_ E. Unlock and empty all ballot boxes.
- \_\_\_\_\_ F. Alphabetize the envelopes by last name.
- \_\_\_\_\_ G. Check the signature on the outside envelope against the list of eligible voters.
  - \_\_\_\_\_ 1. If the name on the outside of the envelope matches a name on the eligible voter list, place a check by that name on the list and place all such envelopes together.

- \_\_\_\_\_ 2. If the signature on the outside envelope is illegible or the name does not appear on the voter eligibility list, set all such envelopes aside as challenged ballots. THESE BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.
- \_\_\_\_\_ 3. If the signature check reveals two or more envelopes from the same individual, set ALL the envelopes from that individual aside as challenged ballots. THESE BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.
- \_\_\_\_\_ H. Only when all envelopes have been checked against the eligibility list may the count continue. At this time, open the outside envelopes of the VALID ballots, placing the outside envelopes in one pile and the UNOPENED secret ballot envelopes in a separate pile.
- \_\_\_\_\_ I. Only when all outside envelopes have been separated from the secret ballot envelopes may the count continue. At this time, set the outside envelopes aside (DO NOT THROW THEM AWAY).
- \_\_\_\_\_ J. Open the secret ballot envelopes, placing the ballots in one pile and the secret ballot envelopes in a separate pile. The empty secret ballot envelopes may be thrown away at the end of the count.
- \_\_\_\_\_ K. Count the ballots by using the tabulation sheet which the election committee prepared in advance.
- \_\_\_\_\_ L. When counting ballots, if a mark is outside the box, if there is an erasure, or if the ballot contains some other discrepancy, the local elections committee must make a judgment as to how or whether to count it. The rule of thumb is to count it if the intent of the voter is apparent and to not count it if the intent is unclear.
- \_\_\_\_\_ M. Announce the results to the membership.
- \_\_\_\_\_ N. Forward the election results to the OEA Central Office:  
  
Ohio Education Association  
225 East Broad Street, Box 2550  
Columbus, OH 43216
- \_\_\_\_\_ O. Keep the ballots, the outside envelopes, tally sheets, and copies of all other election materials for at least one year.

**APPENDIX E**

**ELECTION CHECKLIST - MAIL BALLOT ELECTION**

THIS CHECKLIST AND SAMPLE ELECTION PROCEDURE IS FOR AN ELECTION THAT WILL BE CONDUCTED BY U. S. MAIL. THE EXAMPLE ALSO ASSUMES THAT OEA OR NEA RA DELEGATES WILL BE ELECTED WHICH NECESSITATES ADHERENCE TO THE VARIOUS FEDERAL REQUIREMENTS IN CONDUCTING THE ELECTION.

(Sample Timeline)

- \_\_\_\_\_ Develop a comprehensive timeline to include your specific dates.
- December 1    Appoint Election Committee
- January 15    Construct an election timeline. Review timeline with president
- February 1    Distribute election and nomination information through local newsletter to all members:
- Date ballots will be mailed and return date
  - List of positions to be elected
  - Nomination information
- March 1        Close of nominations
- March 1        Voter eligibility cut-off (must be a member by this date)
- March 7        Briefing meeting with candidates
- March 7        Voter eligibility list prepared
- March 25       Ballots, envelopes, and all election materials printed, and two (2) sets of address labels prepared
- April 7        Mail ballots to eligible voters
- May 1         All returned ballots must be postmarked by this date
- May 5         Count ballots
- May 8         Report election results in local newsletter
- May 10        Send election results to OEA Central Office

**NOMINATIONS**

- \_\_\_\_\_ A.    The election committee should be responsible for the nomination process.
- \_\_\_\_\_ B.    Typical methods of nomination include:

- \_\_\_\_\_ 1. At a membership meeting.
- \_\_\_\_\_ 2. By petition. (There is no need to require a specific nomination form. Be cautious about requiring too many signatures or instituting other requirements.)
- \_\_\_\_\_ 3. By written notification.
- \_\_\_\_\_ 4. Combination of the above.
- \_\_\_\_\_ C. Notification of nomination needs to be made reasonably available to all members. Typical methods of notification include:
  - \_\_\_\_\_ 1. Posting of notice on bulletin board in all work sites.
  - \_\_\_\_\_ 2. Placement in local newsletter.
  - \_\_\_\_\_ 3. Announcement at meeting(s). (If this is the only option used, the meeting announcement would need to be distributed to all members, along with a statement that nomination information would be disseminated at the meeting. This option should be used in conjunction with one of the other methods.)
  - \_\_\_\_\_ 4. Mailing to each member at home.
  - \_\_\_\_\_ 5. Combination of the above.
- \_\_\_\_\_ D. The nomination information provided to members must include:
  - \_\_\_\_\_ 1. Positions to be elected.
  - \_\_\_\_\_ 2. Specific method of nominating and being nominated.
  - \_\_\_\_\_ 3. Date, time, and place for submitting nominations.
- \_\_\_\_\_ E. A member nominated for a position should not be considered an official candidate until he/she has accepted the nomination. It is recommended that this acceptance or rejection should be in writing.
- \_\_\_\_\_ F. It is critical that no nominations be accepted after the nomination deadline has passed; otherwise, an opposing candidate who was timely nominated would have a valid objection to the election.
- \_\_\_\_\_ G. Once the nomination information has been provided to the members, the nomination committee can begin soliciting candidates.

ELECTION PROCEDURE

- \_\_\_\_\_ A. Construct an election timeline. This should be as detailed as possible. At the same time, it is helpful to decide who will do what and when.
- \_\_\_\_\_ B. Review the timeline with president. This is not required, but it may prove helpful to have the president or someone else officially review your election plans.

- \_\_\_\_\_ C. Provide to all active and life OEA/NEA members, the following information (see Appendix A for a sample letter which will need to be modified slightly for a mail ballot election):
  - \_\_\_\_\_ 1. List of positions to be filled by election.
  - \_\_\_\_\_ 2. Date ballots will be mailed and date of return.
  - \_\_\_\_\_ 3. Nomination information:
    - \_\_\_\_\_ a. Explanation of how to be nominated.
    - \_\_\_\_\_ b. Date, time, & place to submit nominations.
  - \_\_\_\_\_ 4. Due date for receipt of biographical information (optional).
- \_\_\_\_\_ D. In addition, it may be helpful to post the above information on bulletin boards at each work location.
- \_\_\_\_\_ E. It is usually helpful to meet with the candidates and review the election procedures and to answer questions.
- \_\_\_\_\_ F. Construct the voter eligibility list which, at a minimum, must include the names and home addresses of those who were active or life OEA/NEA members as of the eligibility cut-off date. Any members on leave or layoff are not eligible unless they have continued their membership and are paying dues. It is most helpful if this list is in alphabetical order and includes the assigned work site of each member.
- \_\_\_\_\_ G. Once the list is prepared, it may be a good idea to inform the candidates that they have a right to review (not copy) the list. Their review of the list may help catch any errors. Also, an opportunity to review the list prior to the election may help prevent complaints after the election.
- \_\_\_\_\_ H. Mail the election material to each voter at his/her last known home address. This mailing should include:
  - \_\_\_\_\_ 1. Ballot
  - \_\_\_\_\_ 2. Secret ballot envelope
  - \_\_\_\_\_ 3. Return envelope (postage prepaid)
  - \_\_\_\_\_ 4. Biographical information (optional)
  - \_\_\_\_\_ 5. Instructions
- \_\_\_\_\_ I. Details of the mailing:
  - \_\_\_\_\_ 1. Instructions:
    - \_\_\_\_\_ a. Mark the ballot.

- \_\_\_\_\_ b. Seal the ballot inside the "Secret Ballot" envelope.
- \_\_\_\_\_ c. Seal the "Secret Ballot" envelope inside the return envelope.
- \_\_\_\_\_ d. Sign the back of the return envelope. Do not remove the return address label from the front of the envelope. You must return your ballot in the envelopes provided, or your ballot will not be counted.
- \_\_\_\_\_ e. The return envelope must be returned by U.S. mail and postmarked no later than \_\_\_\_\_.

\_\_\_\_\_ 2. The usual size of the "secret ballot" envelope is 3-7/8 x 8-7/8 and the words "SECRET BALLOT" are printed in large letters on the front of the envelope.

\_\_\_\_\_ 3. The usual size of the return envelope is 4-1/8 x 9-3/8. The front of the envelope is pre-addressed back to the local association. The back of the envelope has a signature line and statement:

This is to certify that I marked the enclosed ballot.

Signature \_\_\_\_\_

Further, it is advisable to place the voter's address label in the upper left corner of the front of the envelope. This will greatly aid in checking the return envelopes against the eligibility list since it is difficult to read many signatures.

\_\_\_\_\_ J. The return envelopes should be addressed to a neutral address, not to the local association 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 held by the election committee chair and the second by another committee member.

\_\_\_\_\_ K. The recommended time between the mailing of the ballots and the opening of the box is twenty days. If this amount of time is allowed, it is not necessary to do a separate "Election Notice" fifteen days in advance; the ballot itself constitutes notice.

\_\_\_\_\_ L. It is a good idea to rent a post office box for the return of the ballots and place the post office box address on the return envelope. This will allow all of the ballots to be obtained from the post office at one time and will eliminate any potential charges that ballots were lost as they were delivered daily.

\_\_\_\_\_ M. If the returned ballots are not to be counted immediately upon picking them up from the post office, it is a requirement that they be placed in a locked and secure ballot box until they are counted.

COUNTING AND TALLYING THE BALLOTS

\_\_\_\_\_ A. The counting should be done openly and any member is allowed to observe the counting process. At least two members of the local election committee should conduct the counting and tallying process.

\_\_\_\_\_ B. Review the voter eligibility list and cross off all names of individuals who were not

association members as of the time the ballots were cast, even though they may have been members as of the original eligibility date. To be an eligible voter, an individual must have been a member as of the original eligibility date. To be an eligible voter, an individual must have been a member as of the initial eligibility date and be a member at the time of the election.

- \_\_\_\_\_ C. Alphabetize the returned envelopes by last name.
- \_\_\_\_\_ D. Check the signature on the outside envelopes against the list of eligible voters.
  - \_\_\_\_\_ 1. If the name on the outside of the envelope matches a name on the eligible voter list, place a check by that name on the list and place all such envelopes together.
  - \_\_\_\_\_ 2. Any ballot that is challenged shall be set aside and the reason for the challenge shall be written on the envelope.
  - \_\_\_\_\_ 3. If the signature on the outside envelope is illegible or the name does not appear on the voter eligibility list, set all such envelopes aside as challenged ballots. THESE BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.
  - \_\_\_\_\_ 4. If the signature check reveals two or more envelopes from the same individual, set ALL the envelopes from that individual aside as challenged ballots. THESE BALLOTS ARE NOT TO BE COUNTED AND ARE NOT TO BE OPENED.
- \_\_\_\_\_ E. Only when all envelopes have been checked against the eligibility list may the count continue. At this time, open the outside envelopes of the VALID ballots, placing the outside envelopes in one pile and the unopened secret ballot enveloped in a separate pile.
- \_\_\_\_\_ F. Only when all outside envelopes have been separated from the secret ballot envelopes may the count continue. At this time, set the outside envelopes aside (DO NOT THROW THEM AWAY).
- \_\_\_\_\_ G. Open the secret ballot envelopes, placing the ballots in one pile and the secret ballot envelopes in a separate pile. The empty secret ballot envelopes may be thrown away at the end of the count.
- \_\_\_\_\_ H. Count the ballots by using the tabulation sheet which the election committee prepared in advance.
- \_\_\_\_\_ I. When counting ballots, if a mark is outside the box, if there is an erasure, or if the ballot contains some other discrepancy, the local elections committee must make a judgment as to how or whether to count it. The rule of thumb is to count it if the intent of the voter is apparent and to not count it if the intent is unclear.
- \_\_\_\_\_ J. Announce the results to the membership.
- \_\_\_\_\_ K. Forward the election results to the OEA Central Office:



Ohio Education Association  
225 East Broad Street, Box 2550  
Columbus, OH 43216

- \_\_\_\_\_ L. Keep the ballots, the outside envelopes, tally sheets, and copies of all other election materials for at least one year.

## **APPENDIX F**

### **CONDUCTING ONLINE ELECTIONS**

The conduct of elections for local, OEA, and NEA offices must comply with the following principles of a fair election:

- The integrity of a secret ballot
- One-member one-vote
- The right of any candidate to have an observer at the polls and at the counting of the ballots
- Preservation of all election records including ballots for one year

Adherence to these principles while conducting online elections can present challenges.

Two significant challenges are the tension between maintaining the secrecy of the ballot while ensuring that each eligible member's vote is accurately cast, and ensuring observability for a voting technology that does not necessarily generate "ballots" that can be observed at the "polls" and at their "counting," as the LMRDA provides. Because the technology in this field is evolving, it is difficult to identify definitive solutions that are most likely to permit voting that is in conformance with the proper conduct of a fair election.

#### 1. Guidance for preserving ballot secrecy:

The requirement of a secret ballot in union officer elections is to be interpreted strictly. Ballot secrecy requires that no person, including an independent third party, have access to information allowing such person to learn how a particular member cast his or her vote at any time. Moreover, a member's vote must remain secret after the ballot is cast.

It should be noted that online survey services such as Jot Form, Google Forms, and SurveyMonkey each collect data such as email and IP addresses that can be connected to the content of a member's vote. For that reason, those services are not appropriate for a secret ballot election.

One way to help to insure that ballot secrecy is maintained in an electronic voting system is to avoid creating a connection between a voter's identity and the vote cast, i.e., voters' names would never be entered into the system as part of the voting credentials (the term "credentials" in this guidance includes the multiple codes used for various purposes in electronic voting systems, including access codes, log-in codes, confirmation codes, etc.). In this way a voter's identity could never be linked to his or her vote using information in the system. This can be accomplished by determining voter eligibility prior to mailing the voting credentials and by randomly assigning the credentials to each eligible voter. Once this initial eligibility determination is made and the credentials mailed (or emailed), there can be no mechanism to void or prevent the casting of ballots by any members who were determined to be eligible.

Such a system, however, can present logistical challenges. For example, a local may need to provide replacement credentials to members who have not received or have lost their voting credentials or issue such credentials to newly eligible members. If duplicate credentials or other processes are used to resolve these logistical challenges, all material must be secured when not in use and observers must be given the opportunity to observe the processes employed when using the materials.

Online voting systems should employ proper safeguards to prevent a voter from being able to

provide visual proof of the content of his/her vote in order to prevent secrecy violations in the form of coercion or vote buying/selling. For example, the system must not display the voter credential and the content of the vote in such a way that it permits the voter to capture and share the image, nor should lists matching voter credentials and the content of the vote be publicly available.

To the extent that technology is developed for public elections that allows for the inclusion of voter-identifying information in a manner that protects vote secrecy, that technology may also be appropriate for use in union elections.

## 2. Guidance for preserving observer rights:

To conduct a fair election, adequate safeguards to insure a fair election must be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.” This requirement provides for the essential monitoring that votes were cast by eligible union members and that those votes were accurately tallied. In the context of electronic voting systems, in which the “polls” and “tally” are not visible, assuring the integrity of such systems presents challenges.

Procedures in the context of electronic voting, which permit observation and protect the security of the vote from its casting to its counting, must include:

- The opportunity to view the list of members and make eligibility challenges prior to the distribution of voter credentials.
- The opportunity to observe the preparation and distribution of voting credentials to be used by members. Observers must be allowed to view the process, but must not be allowed to see the specific voting credentials that are sent to individual members, which must be kept secret
- The opportunity to observe any later distribution of credentials to members who did not receive or who lost credentials. Again, observers must be allowed to view the process, but must not be allowed to see what specific voting credentials are sent to individual members, which must be kept secret.
- The use of technology that protects the integrity of the vote from the point when it is cast by the voter through the voting process, such as client-side encryption technology, that runs on the voter’s computer or in conjunction with any computer-telephone integration, rather than on the election server.
- The opportunity to observe any steps necessary for the counting of the votes, and any other steps necessary to audit that process.
- The use of technology that provides a secure method of independent vote verification that allows the voter or an observer to confirm that the vote was recorded and counted accurately. Safeguards should be employed, however, to prevent such features from presenting secrecy lapses and opportunities for voter coercion. Safeguards that could preserve this aspect of observability without compromising vote secrecy may include:
  - Allowing each member to view a printed ballot version of his or her electronic vote, which contains a credential known only to the voter and which is stored in a supervised, secure, observable location. These printed ballots could also be tallied in a supervised, secure, observable location to verify the accuracy of the electronic vote count.
  - Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a non-public list of the electronic votes alongside the credential known only to the voter, stored in a supervised, secure, observable location.
  - Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a posted list that pairs representations of votes (e.g., as hashes or

codes that would allow a voter to know that the vote has not been changed but would not reveal the vote choice itself) alongside voter credentials, or representations of voter credentials.

- The electronic voting system should contain mechanisms by which observers can verify, prior to an election, that the system is working properly.

The electronic voting system should include hash chains on the activity logs and the ballot box.

The electronic voting system should be audited by an authorized independent party periodically.

For any electronic voting system, there should be a document or documents that specify the security policy for all systems that will come into contact with the voter or vote information. Further, every role and its corresponding access should be clearly specified, using mathematical descriptions where applicable. The security policy should also include a risk assessment, threat analysis, and modifications made to mitigate such risks/threats.

### 3. Guidance for preserving records:

The electronic votes and any paper versions of the electronic votes, and all other paper and electronic records pertaining to the election, including eligibility lists, the voting credentials, the log files, the time stamped software code used to run the electronic voting system, and the ballot tally results, must be preserved for one year.

### 4. Guidance for preserving right to vote:

An alternative voting method must be provided, upon request, to any member who does not have access to the electronic voting system.

Remote voting must be implemented in a manner that does not create barriers for individuals with accessibility needs.

When selecting an online voting vendor, those members responsible for conducting the local election should inquire about how the vendor provides for a secret ballot, election observers, preservation of records, and accessibility as described above.

The source for this guidance is from the US Department of Labor Office of Labor-Management Standards (OLMS) Compliance Tip – “Electing Union Officers Using Remote Electronic Voting Systems” at [https://www.dol.gov/olms/regs/compliance/catips/2016/CompTip\\_RemoteElecVote.htm](https://www.dol.gov/olms/regs/compliance/catips/2016/CompTip_RemoteElecVote.htm)

**APPENDIX G**

**ABSENTEE BALLOT REQUIREMENTS**

The purpose of an absentee ballot is to enable a person to vote who knows significantly ahead of time that he/she will not be able to vote on site. Strict adherence to this principle is essential to avoid charges that absentee ballots are being doled out in a partisan manner. If the local association desires to issue absentee ballots, the local association must.

1. Notify members of their right to an absentee ballot. The following paragraph is suggested language which may be added to the sample election and nominations notice found in Appendix A.

"This is an on-site election. However, if it is impossible for you to vote on site during either day of the election, you may request an absentee ballot. To do so, send your request, specifically stating your reason for not being able to vote on-site, to (election chairperson)

\_\_\_\_\_  
(name)

\_\_\_\_\_  
(address)

no later than \_\_\_\_\_ (date).

You will receive an absentee ballot which must be returned no later than \_\_\_\_\_ (date).

2. Establish the date upon which absentee ballots must be received. This date must be prior to the election date.
3. Require that requests for absentee ballots be made in writing, and state the specific reason for the request.

It should be noted that absentee ballots should not be provided to persons who become ill or injured just prior to the election. Such practice can lead to charges that the ballots are being doled out in a partisan manner.

If it appears to the election committee that a person is not eligible for an absentee ballot, the election committee should:

1. Send an absentee ballot to the individual.
2. In writing, explain the committee's concern and ask that any necessary clarification be provided by a given date prior to the election. Explain that the ballot may be challenged and set aside when the ballots are counted.

**APPENDIX H**

TALLY SHEET NO. \_\_\_\_\_

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
PRES.																										
REAGAN																										
CARTER																										
Void/Write-In																										
VOID																										
VICE-PRES.																										
FORD																										
NIXON																										
Void/Write-In																										
VOID																										
SEC/TREAS																										
JOHNSON																										
KENNEDY																										
Void/Write-In																										
VOID																										
OEA-RA																										
EISENHOWER																										
TRUMAN																										
ROOSEVELT																										
HOOVER																										
Void/Write-In																										
VOID																										

(Separate ballots into stacks of 25 and use one tally sheet for each stack, then compile all tally sheets.)  
**EACH SHOULD TALLY TO 25**  
 (This tally sheet has proven to be a most effective and accurate means in tabulating results – especially in large locals.)

## **APPENDIX I**

### **OHIO ADMINISTRATIVE RULES 4117-9-05**

#### **4117-9-05 - Fact-finding**

When the statutory procedures of division (C)(2) to (C)(6) of section 4117.14 of the Revised Code apply, fact-finding shall be conducted in accordance with these terms:

A. Subsequent to receipt of a notice to negotiate, the board shall send to the parties a list of five fact-finders from the board's register of neutrals. A second list shall be issued only pursuant to a written statement showing good cause.

B. Not later than thirty-five days prior to the expiration of the negotiation period, the parties shall submit in writing to the board a mutually selected fact-finding panel of one or three members. The names of mutually selected alternates to the preferred panel also shall be submitted in writing to the board at this time. Such selections shall be made by alternate striking of the names, unless the parties mutually agree to another means of selection. If the parties cannot agree to the number of members on the panel, the board shall appoint a one-member panel.

C. The parties may mutually select any fact-finder from the SERB register of neutrals instead of selecting from the list provided by the board. However, selection of a fact-finder not listed on the register shall constitute a mutually agreed-upon dispute settlement procedure and preclude appointment or payment of the fact-finding panel by SERB.

D. Upon receipt of notice of the fact-finding panel selected by the parties and no later than thirty days prior to the expiration of the negotiation period, the board shall appoint a fact-finding panel consisting of one or three members. If the parties have not submitted a selected fact-finding panel to the board within the time designated in these rules, the board shall, in its sole discretion, no later than thirty days prior to the expiration of the negotiation period, appoint a fact-finding panel consisting of one member.

E. In those cases where selected fact-finders are unavailable, the board shall appoint a fact-finder at its discretion.

F. Pursuant to division (C)(3)(a) of section 4117.14 of the Revised Code, upon notice of appointment of the fact-finding panel and prior to the hearing, each party shall submit to the fact-finding panel and serve on the other party a written statement. A failure to submit such a written statement to the fact-finder and the other party prior to the day of the hearing shall cause the fact-finding panel to take evidence only in support of matters raised in the written statement that was submitted prior to the hearing. The statement shall include:

- (1) The name of the party and the name, address, and telephone number of the principal representative of the party;
- (2) A description of the bargaining unit including the approximate number of employees;
- (3) A copy of the current collective bargaining agreement, if any; and
- (4) A statement defining all unresolved issues and summarizing the position of the party with regard to each unresolved issue.

G. The parties may mutually agree to an extension of the statutory fact-finding timelines at any time subsequent to the appointment of the fact-finding panel. An extension must be in writing, specific as to duration, signed by both parties, and submitted to the panel and filed with the board within five days of its execution. An extension may be continued, provided the original extension

procedures are followed. The fact-finding panel has no authority to extend the statutory timelines absent mutual agreement of the parties.

H. The fact-finding panel must hold an evidential hearing except that the parties may stipulate facts and waive hearing. For purposes of hearing, the fact-finding panel shall have the power to regulate the time, place, course, and conduct of the hearing, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and request the board to issue subpoena to compel attendance of witnesses and the production of books, papers, and records relating to any matter before the fact-finding panel. The fact-finding panel may not choose a hearing location at a cost to the parties unless the parties fail to agree to an alternate cost-free location. Costs associated with a meeting room shall be the obligation of the parties.

I. Fact-finding hearings are to be held in private.

J. The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.

K. The fact-finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustment on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

L. No later than fourteen days after the appointment of the fact-finding panel, unless the parties mutually agree in writing to an extension, the fact-finding panel, acting by a majority of its members, shall serve on the parties and the board written findings of fact, written recommendations on the unresolved issues, and a separate summary of each recommendation. Any subsequent change or adjustment by the fact-finding panel in the fact-finding report must be based upon error omission and must be submitted by the fact-finding panel to the board for consideration and imposition of new time periods.

M. Immediately upon receipt, the exclusive representative shall make available, by posting or by other method reasonably calculated to inform the members of the employee organization in the unit, the findings, recommendations and summaries of the fact-finding panel together with a notice of the dates, times, and places where the employee organization's members in the unit may vote to approve or reject the recommendations of the fact-finding panel. A secret ballot election shall be conducted by the exclusive representative at the dates, times, and places set forth in the notice. Such election shall be conducted not later than seven days after the findings, recommendations and summaries of the fact-finding panel are served pursuant to paragraph (C) of rule 4117-1-02 of the Administrative Code. Each member of the employee organization in the unit shall at the time and place of election be issued a ballot containing a choice of "approve" and a choice of "reject" the recommendations of the fact-finding panel. There shall be no voting by proxy. The ballots shall



be tallied immediately upon the conclusion of the election. Written verification of the date of the election, the vote tally, and the number of members of the employee organization in the unit shall be served upon the board and served upon the employer within twenty-four hours after the tally of ballots, but in no event later than twenty-four hours after the expiration of the seven-day voting period. The written verification must contain proof of service upon the employer pursuant to rule 4117-1-02 of the Administrative Code. Failure to serve upon the board and the employer the required voting information within twenty-four hours of the expiration of the seven-day voting period shall constitute failure to reject the recommendations, and the recommendations shall be deemed accepted as the resolution of issues submitted to fact-finding. Oral notification to the board or the employer shall not constitute timely compliance with this rule.

N. Immediately upon receipt, the employer's representative shall make available to the appropriate legislative body the findings, recommendations, and summaries of the fact-finding panel. Not later than seven days after the findings, recommendations, and summaries of the fact-finding panel are served pursuant to paragraph (C) of rule 4117-1-02 of the Administrative Code, the legislative body shall meet and vote to accept or reject the recommendations of the fact-finding panel. Written verification of the date of the vote, the vote tally, and the number of members of the legislative body shall be served upon the board and the exclusive representative within twenty-four hours after the vote count but in no event later than twenty-four hours after the expiration the seven-day voting period. The written verification must contain proof of service upon the employee organization pursuant to rule 4117-1-02 of the Administrative code.

Failure to serve upon the board and the employee organization the required information within twenty-four hours of the expiration of the seven-day voting period shall constitute failure to reject the recommendations, and the recommendations shall be deemed accepted as the resolution of issues submitted to fact-finding. Oral notification to the board or the employee organization shall not constitute timely compliance with this rule.

O. If neither party rejects by a three-fifths vote the recommendations of the fact-finding panel, not later than seven days after the recommendations are sent, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted to the fact-finding panel and a collective bargaining agreement shall be executed, including the fact-finding panel's recommendations, except as otherwise modified by the parties by mutual agreement.

P. If the recommendations of the panel are rejected by a three-fifths vote of either party and the rejection information required by paragraph (M) or (N) or the rule is timely served upon the board and the other party, the board shall post a copy of the fact-finding report and the notice of rejection in its Columbus offices and shall mail copies to the press, with recipients determined at the board's discretion. A board-provided notice of the rejection and a copy of the fact-finding report shall be posted by the employer and the employee organization in conspicuous locations where employees will be reasonably apprised of the contents. The "date of publication" is the date the board mails the notice and report to the press. A notice of rejection shall remain posted for a period of thirty days or until settlement occurs, whichever is earlier.

Q. The board shall pay one-half of the cost of the fact-finding panel and the parties shall each pay one-half of the remaining cost.

HISTORY: Eff. 5-18-87 (1986-87 OMR 1306) 6-24-84, 3-26-84

#### **CROSS REFERENCES**

RC 4117.02, State employment relations board  
RC 4117.14, Negotiation, termination or modification of agreement procedures

## NOTES ON DECISIONS AND OPINIONS

SERB 88-002 (3-14-88), In re Erie County Care Facility. A public employer has seven days after a fact-finder's report is served to reject it under RC 4117.14 and OAC 4117-9-05, not seven days from the time the report is actually received.

SERB 86-030 (8-7-86), In re Miami University. Once the votes of union members on a fact-finder's report have been tallied, the election is over and further voting foreclosed: a union that permits another member to cast a ballot afterward, changing the result of the election, does not thereby commit an unfair labor practice, but the ballot is invalid and will be disregarded.

SERB 85-058 (10-31-85), In re Stark County Engineer. The state employment relations board does not apply time lines rigidly unless required to do so by law, but where a party received a fact-finder's report only one day before expiration of the authorized seven-day response period, the party does not move for an extension in a timely fashion by merely sending a letter to a member of the board's staff after the seventh day has passed.

SERB 85-042 (9-17-85), In re Lima. An employee organization does not commit an unfair labor practice by publishing recommendations of the fact finder before a city council has an opportunity to consider and act on them.

SERB 85-042 (9-17-85), In re Lima. OAC 4117-9-05 imposes no duty on an employee representative to conduct a ratification election once the employer has voted to reject the recommendations of the fact-finder.

SERB 85-004 (2-6-85), In re Columbus. An appointment of fact-finders under RC 4117.14 and OAC 4117-9-05 is compulsory and self-executing, requiring no order by the state employment relations board where no other procedures have been agreed to by the parties.

SERB 85-002 (1-25-85), In re Lima. Certification of the rejection of a fact-finder's report to the state employment relations board is timely under OAC 4117-9-05 when done within twenty-four hours of the end of the seven days allowed for holding the vote.

### 4117-9-06 Final offer settlement procedure; conciliation

Members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police or fire or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, correction officers, guards at penal or mental institutions, special policemen or policewomen appointed in accordance with sections 5991.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, or youth leaders employed at juvenile correctional facilities are prohibited from striking. Unless the parties are subject to a mutually agreed-upon dispute settlement procedure in compliance with paragraph (C) of rule 4117-9-03 of the Administrative Code, these conciliation procedures shall apply:

A. If the parties are unable to reach an agreement within seven days after the publication of the findings and recommendations of the fact-finding panel, then the board shall issue to the parties an

order pursuant to division (D)(1) of section 4117.14 of the Revised Code requiring the parties to engage in settlement by conciliation by a conciliator selected by the parties in accordance with paragraph (B) of this rule. The board may delegate to the bureau of mediation or the executive director responsibility for ordering conciliation when no substantive issues have been raised and when these conditions have been met:

- (1) The fact-finding report was rejected timely by at least one party by a three-fifths majority of the individuals who were eligible to vote;
- (2) The vote on the fact-finding report was served timely upon SERB and the other party;
- (3) Publication of the fact-finding report did occur in which the effective date of publication is stated on the board-issued notice of rejection of the fact-finding report; and
- (4) At least seven days have passed since the effective date of publication of the fact-finding report, and the parties have not reached a settlement.

Concurrent with its order, the board shall provide to the parties a list of five neutrals from which the conciliator will be selected.

B. The parties shall within five days of the issuance of the list notify the board in writing of their mutually selected conciliator and of any mutually selected alternates to the preferred conciliator. When selected conciliators are unavailable, the board shall appoint a conciliator chosen at its discretion.

C. The parties shall within five days of the issuance of the list notify the board in writing of their mutually selected conciliator and of any mutually selected alternates to the preferred conciliator. When selected conciliators are unavailable, the board shall appoint a conciliator chosen at its discretion.

D. If the board has not received written notification of a mutually selected conciliator within five days after issuance of the conciliation order and list of conciliators, on the sixth day after issuance of the order and list, the board shall appoint a conciliator at its discretion. Oral notification to a SERB bureau of mediation staff member within five days of issuance of the order and list will be sufficient if written confirmation is served upon the board within the five-day period.

E. Upon notice of the conciliator's appointment, each party shall submit to the conciliator and serve on the other party a written statement. A failure to submit such a written statement to the conciliator and the other party prior to the day of the hearing shall require the conciliator to take evidence only in support of matters raised in the written statement that was submitted prior to the hearing. The statement shall include:

- (1) The name of the party and the name, address and telephone number of the principal representative of the party;
- (2) A description of the bargaining unit including the approximate number of employees;
- (3) A copy of the current collective bargaining agreement, if any;
- (4) A report defining all unresolved issues, stating the party's final offer as to each unresolved issue, and summarizing the position of the party with regard to each unresolved issue. If, after submission of the parties' reports, mediation efforts result in a change in a final offer, a party may, with the permission of the conciliator, submit a revised final offer to the conciliator.

F. The conciliator shall hold a hearing within thirty days of the effective date of the board's order to conciliate, or as soon thereafter as practicable. For purposes of the hearing, the conciliator shall have the power to regulate the time, place, course, and conduct of the hearing, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and

request the board to issue subpoena to compel attendance of witnesses and the production of books, papers, and records relating to any matter before the conciliator. A conciliator may not choose a hearing location at a cost to the parties unless the parties fail to agree to an alternate cost-free location. The conciliator shall make provisions allowing for a written record of the hearing.

G. Conciliation hearings are to be held in private.

H. The conciliator shall take the following into consideration in resolving the dispute between the parties:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employers doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) The stipulations of the parties; and
- (6) Such other factors, not confined to those listed in this rule, which are normally or traditionally taken into consideration in the determination of issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding or other impasse resolution procedures in the public service or in private employment.

I. The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award.

J. The parties shall bear equally the cost of conciliation.

HISTORY: Eff. 5-18-87 (1986-87 OMR 1307) 6-24-84, 3-26-84

#### **CROSS REFERENCES**

RC 4117.02. State employment relations board

RC 4117.14. Negotiation, termination or modification of agreement: procedures

4117-9-07 Filing of collective bargaining agreement

A. One executed copy of any collective bargaining agreement shall be filed with the board by the employer within thirty days of execution.

B. For the purpose of this rule, the term "collective bargaining agreement" includes contract, memorandum of understanding, extension, amendment, modification, reopener, settlement, or other addendum entered into between an employee organization and employer.

C. All wage information shall be submitted with the collective bargaining agreement. Any amendments or renegotiation of wage information shall be filed by the employer upon execution of the amendment or renegotiated provision.

HISTORY: Eff. 5-18-87 (1986-87 OMR 1308) 6-24-84, 3-26-84

### **CROSS REFERENCES**

RC 4117.02. State employment relations board

RC 4117.14. Negotiation, termination or modification of agreement: procedures.

<b>Strategic Priority 1: Build local capacity to be more relevant to members</b> <b>Strategic Priority 2: Educate and organize members to build support for quality public education</b> <b>Strategic Priority 3: Build OEA as a member resource for professional issues</b> <b>Strategic Priority 4: Educate and organize OEA and its members to advocate for racial, social, and economic justice</b>	<b>2022-2023</b> <b>ANNUAL LOCAL DEVELOPMENT PLAN</b> <b>Document Location: Intranet, Departments, Field</b>
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Local Theory of Change: Click or tap here to enter text.

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PLAN DEVELOPMENT: BY LRC ONLY?  BY THE LOCAL ONLY?  LRC WITH THE LOCAL?

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