



**Election Committee Ruling on Appeal of
2023 Executive Board Election**

I. INTRODUCTION

On August 8, 2023, we were elected by the membership of OPEIU Local 459 to serve as the Election Committee for the Election of the Local's Executive Board. On October 10, 2023 we conducted the in-person voting, and then processed and counted all ballots cast in the election.

On October 12, 2023, Austin Brown sent the Committee a notice of "Election Protest". We are treating this notice as an appeal and responding in accordance with the OPEIU Appeal Procedure (Adopted by the International Union Executive Board on July 1, 2019).

II. ELECTION GUIDELINES ADOPTED BY THE LOCAL 459 ELECTION COMMITTEE

During the election process the Election Committee adopted several Guidelines to ensure that each candidate, including Mr. Brown received a fair and honest election. These are:

- Guidelines for processing and mailing absent voter ballots September 13, 2023 (Attachment 1)
- Guidelines for Ballot Processing on October 10, 2023 (Attachment 2)

These guidelines are incorporated by reference into each response to Austin Brown's appeal. .

The Election Committee also relied on the Guide published by the Department of Labor (DOL) for Conducting Local Union Officer Elections, which can be accessed using the link below:

<https://www.dol.gov/agencies/olms/compliance-assistance/publications/guide-for-conducting-local-union-officer-elections>

The foregoing DOL guide is incorporated by reference into each response to Austin Brown's appeal.

III. FIVE ISSUES SET FORTH IN BROWN'S APPEAL AND ELECTION COMMITTEE RESPONSES/RULINGS

ISSUE #1

"The Election Committee failed to follow the procedure outlined in the Local 459 Constitution for contested ballots".

SPECIFICS AND SUPPORTING DOCUMENTATION OR EVIDENCE SUBMITTED BY MR. BROWN

Mr. Brown stated that: "The Election Committee was present when this took place, observer Tasinda Ridsdale contested Neal Wilensky's ballot to Election Committee Member Jody Johnson."

FACTS

The Committee notified candidates that they were allowed observers for the picking up and processing of returned Absent Voter Ballots on Tuesday October 10, 2023 from 9:00 a.m. to approximately noon, and for the in-person voting and the counting of both Absent Voter Ballots and in-person ballots that same day, Tuesday October 10, 2023, from 6:30 p.m. until the counting was completed.

Candidate Brenda Densmore notified the Committee that Tasinda Ridsdale would serve as her observer. Ms. Ridsdale did not attend the processing of the Absent Voter Ballots in the morning. Ms. Ridsdale did attend the in-person balloting and was present for both the casting and the counting of ballots.

Candidate Austin Brown notified the Committee that Jami Slater would serve as his observer. Ms. Slater attended the processing of the Absent Voter Ballots in the morning. Ms. Slater was in the building during the in-person balloting and the counting of the ballots but did not remain consistently in the polling/counting area.

When the polling room was opened, Ms. Ridsdale and Ms. Slater were provided with an ID badge to wear to identify them as observers. They were given a chair directly in front of the table where members were to be signed in and given ballots. They were given the rules for observers developed by the Committee, which were also given to candidates on August 31, 2023. (Attachment #3)

At approximately 6:45 p.m., the Committee began to sign members in and, if they were on the list of eligible voters provided to the Committee by the Local 459 Office Manager, provide them with a ballot. Members were instructed they could not cast the ballot until the meeting was called to order at 7:00 p.m.

Ms. Ridsdale was present when member Neal Wilensky signed in. Ms. Ridsdale was present when he was given his ballot. Ms. Ridsdale was present while Mr. Wilensky waited to cast his ballot. At none of these points did Ms. Ridsdale contest his eligibility. At 7:00 p.m., Mr. Wilensky and other members began to deposit their ballots in the locked ballot box. As he was about to deposit his, Ms. Ridsdale asked Mr. Wilensky if he was eligible to vote. Mr. Wilensky answered that he was, and then proceeded to deposit his ballot in the lock box. Ms. Ridsdale continued to address Mr. Wilensky about his eligibility to vote. Committee member Jody Johnson went to hear Ms. Ridsdale's concerns. Ridsdale stated she had just received a message saying Wilensky was an "Associate Member". At this point, however, Mr. Wilensky's ballot had already been deposited and mingled with other ballots. As such, there was no way for the Committee to identify his particular ballot and mark it as challenged.

The Rules for Observers clearly states that Objections must be made as soon as possible:

"Observers may challenge the procedure or the accuracy of the vote count by stating their objection to the election committee as soon as possible so that any necessary corrective action may be taken."

The observer in this case, Tasinda Ridsdale, did not challenge Wilensky's ballot in sufficient time to allow the ballot to be processed in accordance with the Challenged ballot process. The observer's failure to timely challenge Wilensky's ballot, prevented the Committee from putting the ballot in a Challenged Ballot envelope while the objection was investigated. (See guidelines)

Furthermore, the objection verbally raised by Ms. Ridsdale was that Mr. Wilensky was an "Associate Member" and not eligible to vote. Associate Member is a rarely used option of membership in the Local 459 constitution (Article 5, Section 6). Such status must be granted by the Local 459 Executive Board. Investigation after the election showed that the Local 459 Executive Board has never granted this status to Mr. Wilensky (see e mail below from Local 459 Office Manager confirming Local 459 has no Associate Members-bolding added).

From: Ronda Ackerson <rackerson@local459.org>
Sent: Friday, October 13, 2023 8:53 AM
To: Austin Brown <austinb_94@yahoo.com>
Cc: Election Committee <electioncommittee@local459.org>
Subject: RE: Membership totals

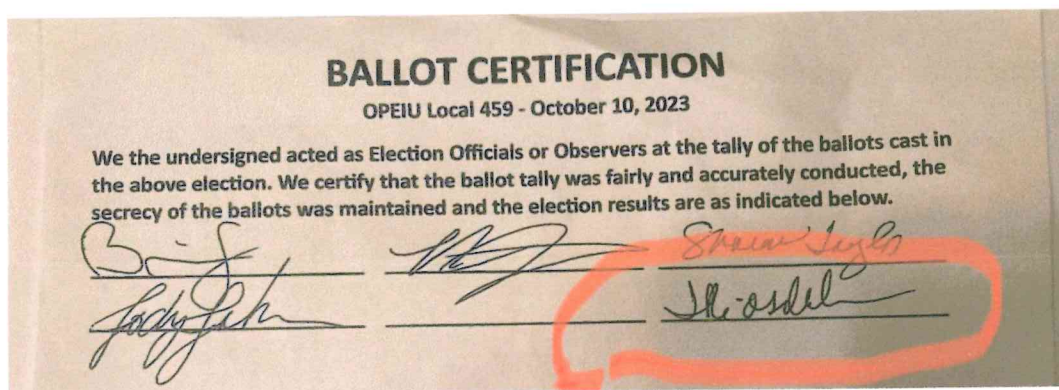
Austin – the active members listing is fluid since I make changes in the database every day.

Right now, we have 2,707. **We currently have no Associate members.** Minus our 25 Retiree members = 2,682.

Ronda Ackerson
Office Coordinator
OPEIU Local 459

In addition, Mr. Wilensky has been allowed to vote in all previous Executive Board elections. His status at the time of the current election remained unchanged from his status during all prior elections in which he had been allowed to vote. As such, based on the foregoing facts, even if the challenge had been timely made, our conclusion would have been to count the ballot.

At the conclusion of the vote count, Observer Ridsdale certified that the ballot tally was fair and accurate.



We agree.

RULING ON ISSUE #1

We find no evidence that this issue constituted misconduct or that it tainted the election or would have affected the election results in a material way.

Accordingly, we deny the appeal as it relates to this issue .

ISSUE #2

"A non-elected volunteer conducted the operations of the Elected Election Committee."

SPECIFICS AND SUPPORTING DOCUMENTATION OR EVIDENCE SUBMITTED BY MR. BROWN

Mr. Brown submitted as evidence documents attached to this report as Brown Attachment #1.

He highlighted Mr. Marutiak writing, "I have been preparing the lists for the Election Committee that candidates request. (The Election Committee told me they preferred I prepare the lists after Ronda sent them a misleading response.)"

FACTS

The issue appears to be Mr. Marutiak preparing lists on behalf of the Committee.¹

The Election Committee is a volunteer body of Local 459 members. We retain our regular full-time jobs. We are charged with conducting an election in a short period of time that is governed by the OPEIU and the Local 459 constitution and by federal law. It includes a mail-in ballot option. It is an elaborate and detailed process. Due to the complexity and time-consuming nature of the election process, the support of the Local 459 staff is an essential component of the Election Committee's ability to carry out its duties and fulfill its obligations. For that reason, the role of staff in this process is built into the Local 459 constitution.

Section 5. An Election Board of three (3) members from different bargaining units shall be elected by the members present at the regular Membership meeting after nominations for the Executive Board have been closed except when there are no positions in which two (2) or more members have been nominated. No candidate in a contested election shall serve on an Election Board. The Election Board shall oversee the Union office staff performing any work required for the election.

Furthermore, the DOL guide acknowledges that officers and/or union staff will handle some election responsibilities. Beyond that, the DOL specifically sanctions a union employing additional temporary staff to perform work required for the election.

Chapter 6: Distributing Campaign Literature

- A union may not refuse to distribute literature because it has no staff or a small staff. If necessary, a union should employ additional temporary staff, use a professional mailer, or have the election officials make the distribution in order to comply with any requests. Any costs (for producing address labels, hiring temporary employees, etc.) can be passed on to each candidate requesting a distribution of literature.

Mr. Brown's objections, although not specific, appear to this Committee to involve one staff person, Joe Marutiak, who was assisting the committee during this election. Mr. Marutiak has been a volunteer office staff since February 2023, long before the election. He has assisted the Committee. The Committee has overseen Mr. Marutiak's work. The Committee has made their own decisions concerning the election process. The Committee has had access to all of the Election Committee emails.

Federal law and the Local 459 Executive Board policy (Attachment 4) gives candidates the right to request certain lists and the right to have certain lists sent to an outside mailer so that they may mail campaign material to members. These lists are not prepared and kept by Local 459 on an ongoing basis. As such, someone has to prepare these lists if requested by a candidate campaigning for election to an officer position.

During the course of the campaign, Mr. Brown requested the following lists from the Committee:

- List of Active Members Home email (to be sent to 3rd party mailer)
- List of Active Members as of 8-3-23
- List of Active Members as of 8-20-23
- List of Active Members as of 8-29-23
- List of Active Members as of 9-6-23
- List of Members who submitted a Request for Absent Voter Ballot Form 9-13-23
- List of AVB Forms received from represented employees not in good standing 9-13-23

¹ If Mr. Brown appeals this report and submits additional evidence regarding this issue, we request that the body hearing the appeal return this issue to us for further review prior to modifying or reversing our ruling.

- List of Active Members as of 9-14-23

The Election Committee does not have access to the data necessary to prepare these lists. The Election Committee does not have familiarity with the Local's electronic and data programs used to prepare these lists. We have relied on office staff to prepare these lists. Our understanding is that some requested lists have been prepared by Ronda Ackerson, and some by Joseph Marutiak. Neither of these individuals have been "conducting the operations of the Elected Election Committee".

The location of the file appears to be a component of this allegation as well. All Local 459 files are kept in SharePoint. All staff have access to all files in SharePoint except for some Secretary Treasurer financial information. Most files in SharePoint are kept in a folder. Each officer and staff have a file in their name but any staff or officer can access the files in any folder. When the Local began preparing for this officer election, files were saved in the "Sharon" folder. (This refers to Sharon Taylor, the current Local 459 President, who is not a candidate in this election) This is a large folder with more than 1,200 files. There was no attempt to hide the location. To the contrary, Mr. Marutiak labelled documents with the location "SP/Sharon-FILE NAME". All of the election files were put in this folder. At some point, Ms. Ackerson and Mr. Brown asserted that saving the file with the other files was improper. In order to address their concerns, and out of an abundance of caution, the files were moved to a folder labeled "2023 Executive Board Election".

No one raised the accessibility of the files as an issue. The relocation of the files did not restrict access to them by any member of staff or officer. However, regardless of where the file was located, Staff are, and were, instructed not to share certain files with candidates. There was insufficient evidence presented to establish that Joe Marutiak, or any other staff member, improperly shared the above-described file, or any other file, with election candidates.

RULING ON ISSUE #2

We find no evidence that this issue constituted misconduct or that it tainted the election or would have affected the election results in a material way.

Accordingly, we deny the appeal as it relates to this issue.

ISSUE #3

"A candidate that was not eligible to run for Office was allowed to run and be elected."

SPECIFICS AND SUPPORTING DOCUMENTATION OR EVIDENCE SUBMITTED BY MR. BROWN

Mr. Brown submitted as evidence documents attached to this report as Brown Attachment #2.

The attachment includes an email with a reference to Cindy Dine highlighted. .

FACTS

We assume the issue is Cindy Dine's eligibility. The issue of Cindy Dine's eligibility was brought to the Election Committee by Brown prior to the election. The Election Committee reviewed this issue several times prior to the election and conveyed its conclusions to Brown.

The Local 459 Constitution requires members to be in continuous good standing for at least the preceding 12 months. Ms. Dine has been a member for decades. We reviewed her dues. In the preceding 12 months she paid dues for 11 of the months. One of the months, November 2022 she was on an unpaid medical leave. The Local 459 constitution states:

- F. **Leaves of Absence.** Members who have worked 50% or more of their normal work schedule shall be required to pay their full dues. Members who have worked less than 50% of their normal work schedule shall not be required to pay dues. vacation time, paid sick leave or any other paid leave of absence shall be considered as time worked for purposes of this subsection. Partially paid leaves such as workers compensation or disability shall not be considered as time worked for purposes of this subsection. Dues shall not be waived for more than twelve (12) months under this subsection.

Ms. Dine reports that when her medical leave stopped being at full pay, she asked the Local 459 Office Manager about dues. Ronda Ackerson told her that she did not need to pay during her unpaid leave because they were waived.

The Committee asked Ms. Dine about the month of November 2022. In response, Dine provided the following email:

From: Cynthia Dine <dine.cynthia2@gmail.com>
Sent: Friday, August 18, 2023 11:36 AM
To: electioncommittee@local459.org
Subject: Cynthia Dine on medical leave in 2022

To the Election Committee,

I, Cynthia Dine', was out on medical leave last year.

I injured my knee on July 4th while I was on vacation in New Mexico.

My vacation time off was scheduled for 20 days.

My injury cut short My vacation because of the need for treatment.

I had to get surgery and physical therapy.

While in recovery from knee surgery, I was diagnosed with colon cancer so I had to under go a 2nd surgery and be out longer.

I had enough PTO that I was able to keep the Union dues and secondary I going until November 2022.

I had been on short term disability with PTO supplements for a full pay check.

I inquired from the staff at the local 459, including Ronda, as to how I could pay up my arrears and was told there was no dues needed because I was out on medical leave and the constitution contained language about waving dues for so many months while out on leave for specific issues.

I had received a get well card signed by staff at Local 459.

I tried to partisapate (sic) in the staff, executive, and other meeting from home via zoom. I ended up falling asleep during One of the meetings and had to be muted. When I woke up the staff laughed and said they would always remember my falling asleep. Ronda said " it's cuz your trying to do too much and your still recovering so don't push it."

I hope this is enough information to explain the missed dues.

Thank you,
Cindy

The treatment of Dine's month of unpaid dues, and the "waiver" of dues payment, was in accordance with the above Constitutional language and has been the Local 459 practice for all members on leave for many years.

Notably, the Constitution does not require that an individual has "paid dues" for the preceding 12 months. Rather, it specifies only that they be "in good standing". Dine remained in "good standing" as a result of the waiver of one month of dues during her unpaid medical leave.

The Local 459 Constitution no longer has language about suspending members. The International constitution does. It states that a member who is 2 months behind in dues shall be suspended.

ARTICLE XIX Local Unions

SECTION 11. Local Unions may discipline their members or officers only as permitted by law for violation of the International Constitution or the Local Union Constitution and Bylaws or for -45- engaging in any activity or course of conduct which is deemed to be contrary or detrimental to the welfare or best interests of the Local Union. Uniform procedures for discipline by Local Unions, including rights of appeal to insure full compliance with applicable law, will be issued by the Executive Board and shall be complied with in order to afford the fullest protection for all parties involved. None of the foregoing is applicable to any matter involving delinquency or failure to pay dues. Any Local Union may provide in its Bylaws for automatic suspension of any member who is delinquent a minimum of one (1) month in dues payment, but in any event any member of any Local Union who becomes two (2) months' delinquent in dues payment shall be automatically suspended.

Dine at no time relevant to this matter was two months' behind in dues.

Ms. Dine was current on all dues because her dues for November 2022 were waived. She cannot be deemed to be not "in good standing" for failing to pay dues she doesn't owe.

However, even if assuming she did owe the November dues, she would only have been 1 month behind in dues at the time of the election process, and, therefore, neither in bad standing, nor subject to suspension.

To the best of our knowledge, no member has been required to pay dues when on an unpaid medical leave under the same circumstances. To the best of our knowledge, no member has ever been denied eligibility to run for office because of not paying dues when on such a leave. However, even if the Local decided to treat Ms. Dine differently than other members under the same circumstances, her failure to pay 1 month of dues would not have disqualified her as a candidate for office.

RULING ON ISSUE #3

We find insufficient basis to conclude that there was any violation of either the local or international constitutions, and insufficient basis to conclude that this issue constituted misconduct or affected the results of the election. We find that Ms. Dine was eligible for election to the Executive Board.

Accordingly, we deny the appeal as it relates to this issue .

ISSUE #4

"The Election Committee failed to give Austin Brown a fair and honest election".

SPECIFICS AND SUPPORTING DOCUMENTATION OR EVIDENCE SUBMITTED BY MR. BROWN

Mr. Brown submitted as evidence documents attached to this report as Brown Attachment #3.

Mr. Brown also asserted as follows: "The Election Committee stated they were doing an investigation, Austin Brown asked them if they would be at the meeting because he would rather talk with them face to face or by phone since one of the people that are being accused has access and receives emails that are sent to this email address. They never responded to this question and failed to conduct a thorough investigation. Instead, the Election Committee sent an email to the Candidate that Austin Brown was

running against saying they completed an investigation and found no wrongdoing and the candidate used this as campaign literature.”

FACTS

The issues raised by Brown appear to be:

- 1) The Committee declined to meet with him face to face.
- 2) The Committee failed to thoroughly investigate one of his allegations.
- 3) The Committee investigated another candidate's complaint, responded to her and that candidate published the response.

(1) The Election Committee had extensive dialogue with Mr. Brown throughout the election process. The Committee did not meet with any individual candidates. The Committee repeatedly asked Mr. Brown if he had any evidence to support allegations. He did not respond and did not produce any evidence. The lack of a “face to face” meeting did not hinder the Committee's work to produce a fair and honest election.

(2) To the best of our knowledge, the allegation that Brown believes was not investigated thoroughly, concerns his claim that a file with personal information about members had been saved inappropriately. ² The Committee met on September 17, 2023. We reviewed the computer used by Office Manager Ronda Ackerson and the one used by Mr. Marutiak. We found an Access list that Ronda Ackerson made and a similar Excel list that Joseph Marutiak made. Both appear to have been made for legitimate work-related reasons. The Committee did not find, and has not been provided by Mr. Brown or anyone else, with any evidence that personal and confidential information member information has been disseminated in violation of policy. We notified Mr. Brown on at least 2 occasions that his claim was investigated and that no wrong doing was found. We encouraged him to provide any evidence he had that would indicate that either Ms. Ackerson or Mr. Marutiak shared their list. We did not receive a response.

(3) On September 16, 2023, the Committee received an email from Elizabeth (Betsy) Lehner regarding a post on Facebook by Mr. Brown which used the above allegation.

-----Original Message-----

From: Betsy Lehner <betsy.lehner@gmail.com>
Sent: Saturday, September 16, 2023 3:58 PM
To: Election Committee <electioncommittee@local459.org>
Subject: Facebook post

Dear Members of the Election Committee,

This email is to make you aware of a post made by Austin Brown, on Facebook, regarding supposed wrong doings. It is one thing for him to make you (and the Executive Board) aware, but it is another thing to post it publicly before you've even had a chance to address the supposed issue.

Please find attached two (2) screen shots as evidence of his posting. Whether or not his post is found to be violation is obviously up to you as a committee, and I leave it in your hands. I would rather make you aware than say nothing at all.

Thank you for your time and consideration, Elizabeth (Betsy) Lehner

She asked the Committee to investigate if it was “a violation”. This request was discussed by the Committee at its September 17, 2023 meeting. While the Committees investigation concluded there was

² If Mr. Brown appeals this report and submits additional evidence regarding this issue, we request that the body hearing the appeal return this issue to us for further review prior to modifying or reversing our ruling.

no violation by the saving of the files, the Committee reviewed DOL advice regarding campaign literature. The DOL advises:

“The union may not censor campaign literature in any way, even if the literature includes derogatory remarks about other candidates. A union’s contention that mailing certain campaign literature may constitute libel does not justify a refusal to distribute the literature since the union is under a legal duty to distribute the material.”

This information was conveyed to Ms. Lehner.

From: Election Committee
Sent: Monday, September 18, 2023 3:39 PM
To: Betsy Lehner <betsy.lehner@gmail.com>
Subject: RE: Facebook post regarding supposed wrong doings

Betsy,

We have reviewed the post made by Austin Brown. We reviewed the files and examined the computers. It appears that, for work related purposes, files were created on Local 459 computers that contain personal information. We found no evidence of personal information being shared in violation of the Local 459 executive board policy or DOL regulations.

The Department of Labor does not allow us to censor campaign literature. The regulations say even libelous campaign literature cannot be censored by us in any way.

Let us know if you have any questions.

The Local 459 Election Committee

Jody Johnson

Nikki Johnson

Mr. Brown’s complaint that Lehner “published” the above response, or otherwise used this response in campaign literature, involve actions which are not only beyond the Committee’s control, but also for which the DOL prohibits any censorship. For the same reasons the Committee was unable to censor Mr. Brown’s literature as suggested by Ms. Lehner, the Committee was unable to censor Ms. Lehner’s literature at the request of Mr. Brown.

In summary, the Committee was not required to meet with any candidate “face-to-face”, the Committee did investigate Mr. Brown’s allegation, and the Committee committed no wrong-doing by failing to censor another candidate’s literature.³

RULING ON ISSUE #4

We find no evidence that this issue constituted misconduct or that it tainted the election or that it would have affected the election results in a material way.

Accordingly, we deny the appeal as it relates to this issue .

ISSUE #5

“Proper notification as outlined in the Local 459 Constitution was not provided to the Membership.”

SPECIFICS AND SUPPORTING DOCUMENTATION OR EVIDENCE SUBMITTED BY MR. BROWN

³ If Mr. Brown appeals this report and submits additional evidence regarding this issue, we request that the body hearing the appeal return this issue to us for further review prior to modifying or reversing our ruling.

Mr. Brown submitted as evidence documents attached to this report as Brown Attachment #4.

The issue appears to be that while notice of the candidates and election were sent to members physical address, it was not sent to their email address.

FACTS

The Local 459 Constitution states that notice of the October meeting and a list of candidates "shall be mailed to all members in good standing at their last known physical and email address". Local 459 complied with the first requirement of this provision. Notices were sent in a timely manner to all members' physical addresses using both a 3rd party mailer and the USPS.

A requirement for email notification to members was added in the most recent revision of the Local 459 Constitution. Prior to this, email notification had not been required, and had never been done before. At present, the Local 459 email system is not set up to accommodate a large number of addresses. Our best estimate is the Local has approximately 2,700 active members. Of those we have personal email addresses for approximately 2,000. That far exceeds the limitations of the current email system.

The Election Committee tried to send an email Election notice via its 3rd party vendor but the mailer was unwilling to process it. The Committee received this email from the mailer.

From: Jamie Heitman jheitman@alliedmedia.net
Sent: Thursday, August 17, 2023 12:35 PM
To: Election Committee electioncommittee@local459.org
Subject: Re: Local 459 Election - Candidate mailings

We appreciate the opportunity to be of service. We can print and mail any candidate materials. We cannot do email send outs for union elections. Our clients have run into snags with the DOL around email communications for officer elections.

Thanks for your email,
Jamie Heitman
Cell: 313.719.1500

This information was conveyed to Mr. Brown. He stated he would help find a willing vendor. Mr. Brown sent this email to the Committee:

From: Austin Brown <austinb_94@yahoo.com>
Sent: Thursday, August 17, 2023 6:35 AM
To: Election Committee <electioncommittee@local459.org>
Subject: Re: Austin Brown : Campaign Literature e mail Distribution

Thanks, I will reach out and possibly look for another vendor.

In Solidarity,
Austin Brown
Candidate for Local 459 President

Neither the mailer, the Local, nor Mr. Brown was able to identify another mailer who could do it.

RULING ON ISSUE #5

Given the very recent change to the Local 459 Constitution, the Local was simply unable to obtain the technical upgrades necessary to accommodate the quantity of emails necessary to provide email notice for the current election. We do not believe the lack of a 2nd notice of the meeting (via email) materially affected the election.

We find no evidence that this issue constituted misconduct or that it tainted the election or that it would have affected the election results in a material way.

Accordingly, we deny the appeal as it relates to this issue .

IV. MISCELLANEOUS AND UNSPECIFIED REQUESTS FOR A RE-VOTE

Shortly after the election we received 3-4 emails from members asking for a "revote". The reasons cited were either vague, i.e., "non-compliance" or beyond the Committee's scope i.e., "low turnout". Because these did not comply with the requirements for appeals, We did not recognize these as appeals under the Appeal Procedure but to the extent that they were, the above findings and rulings apply.

Respectfully submitted,

Local 459 Election Committee:

Nikki Johnson, Chair



Brian Clay



Jody Johnson





**Local 459 Election Committee
Guidelines for Processing Absent Voter Ballots (AVB)
September 13, 2023**

Days prior

Local 459 staff will order 3 sets of 1,250 envelopes. #11 envelopes for mailing the ballots. #10 envelopes for returning the ballots. # 9 envelopes for keeping the ballots secret. The committee will review and approve the envelopes.

Election committee has ballots printed for the absent voters. Election committee has 100 ballots printed for MGL Technical Member-at-Large unit, 300 ballots printed for Units Under 100 units and 700 ballots printed for the Officer only units. The Election Committee will pick up the ballots from the printer and maintain possession of the ballots.

Morning of Sept 13th

Election committee meets at Local 459 office at 9 am. Observers will be given a copy of these guidelines and of the rules for observers.

Tables will be set up for an assembly line production.

A chair will be set aside for observers.

An alphabetical list of names and bargaining unit of individuals who submitted an AVB form but are not members in good standing as of September 13, 2023 will be printed and available for review.

A list of names and bargaining unit of individuals who submitted an AVB form and are members in good standing as of September 13, 2023 will be printed and available for review. The list will be in the following order; 1) members in the MGL Technical bargaining unit in alphabetical order, 2) members in Units Under 100 members in alphabetical order and 3) all other members in alphabetical order. Each name on the list shall be assigned an AVB Number.

Local 459 staff will run labels for the home address for all members in good standing as of September 13, 2023 who have submitted an AVB form. The labels for all members in good standing as of September 13, 2023 who have submitted an AVB form will be in 3 groups; 1) members in the MGL Technical bargaining unit, 2) members in Units Under 100 members and 3) all other members. Each set of labels will be in alphabetical order. A copy will be made of the labels. The copy of the labels will be given to the Election Committee. The copy of the labels will be available for review but may not be copied or photographed.

ATTACHMENT 1, PAGE 2

The committee will start with the MGL Technical members first.

The total number of MGL Technical members in good standing who have requested an absent voters ballot will be announced. That number of envelopes and ballots will be **counted out**. The remaining envelopes and ballots will be secured.

The ballots will be **folded** in a manner that makes them best able to fit into the #9 envelope.

The committee, with help from Local 459 staff if requested by the committee, will **put a MGL Technical ballot, the instructions and a #9 envelope in each #11 envelope**. There should be 1) all of the stuffed MGL Technical #11 envelopes and 2) the MGL Technical #10 envelopes.

Then the committee will **put a label on a #11 envelope**, identify the AVB Number for that member, **write that AVB Number** on the #10 envelope and **insert the #10 into the #11 envelope**. The envelope will then be put into a secure location waiting for postage.

The committee will then do the same all for members in Units Under 100 members.

The committee will then do the same all for all other members.

Postage

Postage will be put on the #11 envelopes in the Local 459 office. ~~Envelopes will be put in piles of 25 and bound with rubber bands.~~ The committee will observe the postage. Observers will be welcome to observe.

Any envelopes mangled by the postage machine will be put aside. After all the others have been given postage, mangled envelopes and/or ballots will be replaced, and the originals marked "VOID" and put in a marked manila envelope.

Delivery to Post Office

The committee will deliver the #11 envelopes to the US Post Office. ~~The number of envelopes will be verified one last time by counting the piles of 25.~~ Observers will be welcome to attend.



Local 459 Election Committee Guidelines for Ballot Processing on October 10, 2023

Morning

1. Meet at Post Office at 9 am.
2. Pick up absentee ballot business envelopes.
3. Count number of business reply envelopes. Put in piles of 25. Recount the piles. Give count to any observers.
4. Proceed to Local 459 office.
5. Have staff run a list of all members who were sent an absentee ballot(s). Include 1) if currently considered “active” 2) AVB number 3) “Non-Member” status
6. Put business reply envelopes in full numerical order. (Using AVB number on envelope). First sort by 100s. Then sort by exact number. Count the number of envelopes again.
7. Highlight names of all members who returned a business reply envelope on the list.

| ISSUE | HOW TO PROCEED |
|---|--|
| The committee is unable to identify the member associated with an envelope (e.g. the AVB number has been made unreadable) | Try to identify using signature. If unable to identify the member sending the envelope, the committee will challenge that ballot. The envelope will be placed into a Challenged Ballot Envelope. “UNKNOWN VOTER - VOIDED BALLOT” will be written on the Challenged Ballot Envelope. A note will be made on the Challenged Ballot list. |
| A member has returns both an original ballot and a replacement ballot | Only the replacement ballot will be processed. The other original business reply envelope will be placed into a Challenged Ballot Envelope. The reason for the challenge will be written on the Challenged Ballot Envelope. Record the name & number on the Challenged Ballot List. |
| An envelope is received from someone who is no longer considered “active” or is now a Non-Member (e.g. declared RTW status) | The Committee will challenge those ballots. All challenged absent voter ballots will be placed into a Challenged Ballot Envelope. The reason for the challenge will be written on the Challenged Ballot Envelope. Record the name & number on the Challenged Ballot List. |

8. Ask observers if they are challenging any of the remaining absent voter ballots. Any challenged absent voter ballots will be placed into a Challenged Ballot Envelope. The reason for the challenge will be written on the Challenged Ballot Envelope. Record the name & number on the Challenged Ballot List.
9. Count number of Challenged Ballots and verify number of envelopes to be processed

ATTACHMENT 2, PAGE 2

- 10. Divide envelopes into 3 groups, 1) MGL Technical bargaining unit 2) All Units under 100 members 3) All other members. Count number of envelopes for each group.
- 11. Open business reply envelopes in the first group and take out #9 secret ballot envelopes.

| ISSUE | HOW TO PROCEED |
|--|--|
| A business reply envelope contains a ballot that is not in a #9 secret ballot envelope | Keep it face down and immediately put into such an envelope and processed with the rest. |
| Secret ballot envelope is signed or otherwise identifies the voter | Ballot is spoiled. The spoiled secret ballot envelopes will be challenged and put in the Challenged Ballot Envelope. Record the name & number on the Challenged Ballot List. |

- 12. Put valid secret ballot envelopes in box.
- 13. Repeat for 2 other groups.
- 14. The box is locked by the Election Committee. SHOULD WE SEAL THE BOX?
- 15. Save business reply envelopes.
- 16. Ask staff to run sign-in sheets to be used at the meeting.

List is separated By A - L and M - Z. List is of Active employees in the Local 459 database.

In the "Sign in Here" Column put these notations

| | |
|------------------------|--|
| Put in Sign in Here | Person meets this criteria |
| "Voted Absentee" | If person returned non-challenged absent voter ballot |
| "On Probation" | Active employees who have not started paying dues yet. |
| "RTW" | Active employees who are not paying dues. |
| "Not eligible to Vote" | Active employees who are not eligible to vote for some other reason. If possible, put details. |

Office Manager should confirm that names with empty Sign in Here column are members in good standing.

If possible, color code names of members eligible to vote in person by bargaining units 1) Technical 2) Bargaining units under 100 3) All other bargaining units. Shade name of Active Employees who are considered not eligible to vote.



Local 459 Election Committee Guidelines for Ballot Processing on October 10, 2023

Membership Meeting

1. Election committee sets up room.

There are 2 sign-in tables. One for members with last names beginning with A – L.
One for members with last names beginning with M – Z.

2. Ballot box with Absentee Ballots is placed in room but remains locked AND SEALED.

Ballot box to be used for in-person voting is opened in the presence of observers to confirm it is empty and then it is locked by election committee.

3. Open meeting.

4. Member gives Election Official her/his name. Election Official looks up name in membership list. Check if there is any writing in "Sign In Here" column.

A. If member is clearly eligible to vote

- i. Election official #1 tells election official #2 type of ballot.
- ii. Member signs membership book.
- iii. Election official #2 gives member ballot and directs to a REGULAR VOTING BOOTH.
- iv. Member votes and places ballot in locked box.

B. If members name is not on the list or is on the list and says not eligible to vote

- i. Member is given the option of attempting to determine voting status immediately or casting a provisional/challenged ballot (C below).
- ii. Member is taken to the Office Manager to research issues.
- iii. Office Manager reports back to Election officials.
- iv. If Election Committee rules member is deemed eligible to vote see A above.

C. If member is not deemed eligible to vote OR if observer contests voter's right to vote

ATTACHMENT 2, PAGE 4

- i. Voter signs membership book. If name is not in book, voter signs at the bottom of the last page. A "C" is placed next to the name.
- ii. Election official #1 gives challenged ballot envelope with reason written on it to election official #2.
- iii. Election official #1 tells election official #2 type of ballot.
- iv. Election official #2 gives member ballot, and secret ballot envelope and directs voter to PROVISIONAL VOTING BOOTH.
- v. Voter votes and places ballot in secret ballot envelope.
- vi. Voter returns envelope to election official #2 who deposits blank envelope into challenged ballot envelope and then puts it into locked box.

Counting Ballots

Separate and Co-Mingle Ballots

1. Polls close at 7:30 p.m. or after the last member in line at 7:30 p.m. votes.
2. Open secret ballot box. Open secret ballot envelopes face down. Separate ballots by putting Technical Unit, Units under 100 and All other Units in separate piles. Count ballots in each pile.
3. Open meeting ballot box. Put ballots face down. Separate ballots by putting Technical Unit, Units under 100 and All other Units in separate piles. Count ballots in each pile.
4. Co-mingle absentee and meeting ballots for each group.
5. Count number of challenged/provisional ballots. Mark number of challenged/provisional ballots on Ballot Tally Certification form.

Count the All Other Units ballots

Count slate votes using stack method

1. Put ballots in bundles of fifty (50), setting aside spoiled ballots (see criteria below).
2. Label bundles by number. Announce number.
3. Take a bundle. Divide into stacks 1) by voted by slate and 2) voted by candidate.

Make Voted by Slate Pile

If a voter only voted for a slate, put it into voted by slate pile. If a voter voted by slate and also voted for candidates IN THAT SAME SLATE put it into voted by slate pile.

Make Voted by Candidate Pile

ATTACHMENT 2, PAGE 5

If a voter voted for candidates in different slates or did not vote in every race, put it in the voted by candidate pile.

4. Repeat for all bundles.

Count Voted by Slate Pile

1. Exam each ballot. Confirm it is a Slate ballot. Dived the ballots into MF slate and WT slate. Count the ballots and put in stacks of 25. Election official #1 counts and election official #2 double check each stack's count with election official #3 recording each stack. Mark the bundle.
2. Announce results.

Count voted by Candidate using call method

1. Election official #1 takes voted by candidate pile face up. Begging at the President calls out the name of candidate that received the vote. Election officials #2 and #3 separately record the vote on the Tally Sheet by putting tally marks in groups of 5.
2. When all the ballots have been called, compare the tally sheets. If there is a disagreement re-call the votes for that race.
3. Announce the results.

Add the by Slate votes to the by Candidate votes. Announce the results.

Count the Units under 100 ballots using the same method.

Count the Technical unit ballots using the same method.

Add the votes in all 3 groups. Announce the results.

If provisional/challenged ballots for any race could potentially affect the outcome of the race, attempt to resolve ballot status.

| ISSUE | HOW TO PROCEED |
|---|---|
| Member marks on the ballot which allow you to identify the voter. | Ballot is spoiled. Mark "VOID" and initial. Write a brief reason for the void on the back. Put in the challenged ballot envelope. |
| Member marks a slate and then marks for a candidate(s) | Count the races where there is no conflict. |
| Member votes for more candidates than allowed in a race | Void just that race. Put a line through the boxes for that race and mark "VOID" in that race. Initial |

| | |
|---|--|
| Concern is raised but Committee is able to determine the intent of the voter in that race | Circle the name of the candidate being awarded the vote and initial. |
| Blank ballot | Mark VOID and initial |

jm/opelulocal459af1-cio
SP/2023ElectionExBd-GuidelinesForProcessingBallotsOnElectionDay



**Local 459 Election Committee
2023
Rules for Observers**

At all times

1. Each observer must identify herself/himself and wear a badge provided by the election committee.
2. Observers may not touch or handle ballots at any time.
3. Observers may challenge the procedure or the accuracy of the vote count by stating their objection to the election committee as soon as possible so that any necessary corrective action may be taken.
4. Observers who engage in improper conduct may be asked to leave the premises. The candidate will be notified and allowed to appoint a replacement observer.

Day of Election

5. Observers, accompanied by the election committee should inspect the voting booth and empty ballot boxes prior to the start of the voting.
6. Observers may not campaign in the voting area in any way. They may not wear buttons or other campaign material or engage in conversations with voters about candidates or the election campaign.
7. Observers may not roam the voting area or disrupt the polling process in any way. They must direct any questions or problems directly to the election committee.
8. Observers may challenge the eligibility of any voter by specifying the basis to the election committee.

**OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION
LOCAL 459, AFL-CIO**

EXECUTIVE BOARD POLICY

SUBJECT: USE OF THE MEMBERSHIP LIST OR LOGO IN CAMPAIGNING FOR AN EXECUTIVE BOARD POSITION

ADOPTED: June 12, 2001
REVIEWED: December 11, 2001
 November 18, 2003
 December 13, 2005
 November 13, 2007
 November 12, 2013
 November 10, 2015
AMENDED: August 14, 2012
 November 14, 2017
 November 10, 2020

1. For purposes of this policy, a candidate is defined as any qualified member seeking to be nominated and elected to an Executive Board position.
2. Any candidate who requests a copy of this policy shall be provided one. If at least one (1) Executive Board position will be elected by secret ballot, a copy of this policy shall be given to each candidate for an Executive Board position who has accepted nomination.
3. Access to the Local 459 membership list for purposes of campaigning for an Executive Board position shall be subject to such restrictions as are outlined below within the bounds of law to ensure the confidentiality of the members and protect the membership from commercial exploitation.
4. If any portion of this policy conflicts with federal, state, or local law, the law shall take precedence. The remainder of the policy shall still remain in force.
5. Candidates for elected office shall be allowed to inspect a list containing the names and last known addresses of the membership at the Local 459 office once within thirty (30) calendar days prior to the mailing of absent voter ballots to the membership. No duplication or recording of this information shall take place during the review.
6. At the written request of a candidate, a list of the names of all active Union members or a specific portion of active Union members shall be provided. This list shall also include the bargaining unit of each member and her/his department. This information shall be arranged in any fashion requested in writing by the candidate to the extent possible by the computer technology then in use by the Local 459 office. The candidate shall not be provided with the members' physical addresses, email addresses or phone numbers under any circumstances.
7. Reproduction and/or mailing of any campaign literature to the membership requested in writing by a candidate shall be done by an outside vendor(s) with the entire cost to be paid by the candidate. The Election Committee shall select the vendor(s) for mailing. Local unionized vendors shall be utilized whenever possible. The Local 459 office shall provide names and addresses from the membership list to the vendor(s).
8. Names and addresses for a specific portion of the membership list shall be provided to the outside vendor(s) at the written request of a candidate to the extent possible by the computer technology then in use by the Local 459 office.
9. Written requests to reproduce and/or mail campaign material to the membership must be received in writing to ensure adequate time to complete the request.
10. The members' address on file with Local 459 shall be used. It is the member's responsibility to inform the Local 459 office of any changes in her/his address.
11. A written estimate of the cost involved shall be requested from the vendor(s) by the Local 459 office. The estimate will be given to the candidate. The candidate shall furnish the necessary funds to cover this estimate to the vendor(s) before any work is performed. The candidate shall be responsible for paying any additional costs beyond the initial estimate including Local 459 staff time, mileage, and any supplies used.
12. No member's dues money or other funds from Local 459 shall be used to create, reproduce, or distribute campaign literature under any circumstances.
13. Candidates cannot use the OPEIU logo on campaign literature or otherwise suggest the material is coming from OPEIU or Local 459.
14. Candidates cannot use Local 459 phones, fax, e mail, address or social media accounts in campaign literature.

Brown Attachments

Fwd: Accusations by Ronda Ackerson

From: Sharon Taylor (staylor@local459.org)

To: electioncommittee@local459.org; local459@local459.org

Date: Friday, September 15, 2023 at 01:55 PM EDT

I am forwarding Joe Marutiak's response to you for informational purposes. I believe there were no violations and am willing to answer any questions you may have for me.

Sharon Taylor

President

Local 459

838 Louisa St., Suite A

Lansing, MI 48911

(517) 887-8844 – office

(517) 887-8848 – fax



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From: Joe Marutiak <joemarutiak@gmail.com>
Sent: Friday, September 15, 2023 1:20:12 PM
To: Sharon Taylor <staylor@local459.org>
Cc: Election Committee <electioncommittee@local459.org>
Subject: Accusations by Ronda Ackerson

It is unfortunate that Ronda would send such a libelous message without even talking to me first. There has been no violation that I am aware of and certainly none by me. Here is what she is talking about.

For whatever reason, all of the Local 459 member database is kept only on one computer, the laptop used by Ronda. I have been preparing the lists for the Election Committee that candidates request. (The Election Committee told me they preferred I prepare the lists after Ronda sent them a misleading response.) The only time I can access this information is when Ronda is not using her laptop (usually evenings or weekends).

The database was not updated with all the Absent Voter information until the end of the work day of September 13th. There were several outstanding requests from candidates at that time:

1. A request from candidate Cindy Dine for a list of members who requested ballots but were not eligible
2. A request from candidate Cindy Dine for a list of members who requested ballots
3. A request from candidate Deb Jones to send a list of the home addresses of members who requested a ballot to the mailing company
4. A request from candidate Deb Jones to send a list of the home addresses for any CEI CMH employee who requested a ballot to the mailing company

All of these requests were in accordance with the Local 459 Executive Board policy on campaigning. In order to prepare these lists I needed the names and home addresses of the members who requested a ballot (again the home addresses were sent only to printer and not the candidates).

This is the file that Ronda found. It is saved in the same electronic location where all of the Election files have been saved. As far as I know, Ronda would have no reason to be in those files.

The file I made the evening of Sept 13th was used the evening of Sept 13th and the morning of Sept 14th to send the lists the candidates had previously requested. The candidates and the mailer can confirm that was the time they were sent the files. The email sent folder will show those times also.

I have never given a candidate information that they were not legally entitled to. Ronda has the same information saved on her computer. I could just as easily assume that she is sharing it inappropriately but I have no evidence to suggest that. Likewise she has none to suggest I did. Just that, as part of my duties assisting the Election Committee I made a file of information that is already in the Local 459 database so I could make other files at the candidates request.

I am happy to answer any questions.

Joe Marutiak

From: Ronda Ackerson <rackerson@local459.org>
Sent: Friday, September 15, 2023 12:24 PM
To: Sharon Taylor <staylor@local459.org>
Cc: Election Committee <electioncommittee@local459.org>
Subject: RE: Special Executive Board Meeting

Executive Board and Election Committee:

A few things have come to light during the election process that I believe are imperative the Board/Committee should be aware of. This is the latest:

On 9/14/23, I discovered a large report had been exported from Access into Excel sometime between 4:30pm on 9/13/23 (the day the ballots were mailed) and 9:00am on 9/14/23. The likely candidate is Volunteer Marutiak as I don't believe that anyone else in the office knows how to do this. Marutiak has been the Lead in running the Election Committee. The report was saved in President Taylor's files (electronically). I did speak to Taylor about this, just as I had met with her the week prior regarding some election concerns. I believe this recent file discovery containing all personal information on everyone that requested an Absent Voter Ballot is a clear violation of our own EXBD policy and possibly Department of Labor rules/regulations.

I'm asking that the Board find a few more minutes (15-30) in their schedules on Monday evening, September 18th to further discuss these issues after the grievance hearing.

Thank you for your time and consideration.

Ronda Ackerson
Office Coordinator
OPEIU Local 459
(o) 517-887-8844
(f) 517-887-8848

Response to emails

From: Election Committee (electioncommittee@local459.org)

To: austinb_94@yahoo.com

Date: Monday, October 2, 2023 at 03:07 PM EDT

Austin,

We met and discussed your concerns. Some of them have been addressed before. We do not believe that a meeting is necessary unless you have evidence to support some of the allegations.

Local 459 Policy that allows Joe Marutiak to do Election Committee work.

We have addressed this in the past.

Joe Marutiak has been a volunteer office staff since February 2023, long before the election. The Committee has overseen his work.

The Committee has made their own decisions.

The guide from the DOL acknowledges that officers and/or union staff will handle some election responsibilities. It also speaks of a union employing additional temporary staff to perform work required for the election.

Absentee Ballot Request list with personal and confidential information.

The Election Committee has not been given or found any evidence that personal and confidential information has been given in violation of policy. If Austin is referencing the Access list that Ronda Ackerson made and/or the Excel list that Joseph Marutiak made, the Election Committee has seen no evidence that either list has been shared.

Meeting notifications not being sent via email, as the Constitutions calls for.

The email requirement is new and has never been done before.

The Election Committee tried to send the Election notice via email but the mailer was unwilling to process it. The Local 459 email system is not set up for large addresses (more than 2,000) Neither the mailer nor the Local was able to identify another mailer who could do it.

We do not believe the lack of a 2nd notice for some members will materially affect the election.

Cindy Dine's Eligibility

The election committee has reviewed the documents again. They indicate her paying dues even when she is on leave except for 1 month when her dues were waived per the Local 459 Constitution.

Previously we offered 2 times to let you review the records in person. You did not show and did not ask for an alternative time. We do not feel we can share copies. The records contain personal information about other members. You have posted similar information on Facebook. If you arrange a time with Joe Marutiak, we will allow you to review but not to record those records.

Jeff Fleming texting CMH members about the election.

OPEIU Local 459 Constitution and Bylaws

it has one hundred (100) or more members for the six (6) full consecutive months prior to the nominations of Officers. If after the election of Officers, a bargaining unit adds members so that its membership is one hundred (100) or more for six (6) consecutive months, then that bargaining unit shall be entitled to a Member-At-Large seat which shall be filled in accordance with Section 4 (I). If after the election of Officers, a bargaining unit loses members so that it has fewer than one hundred (100), then that bargaining unit shall retain its Member-At-Large seat until the next election.

ARTICLE 9 - CONDUCTING ELECTIONS OF THE EXECUTIVE BOARD

Section 1. It shall be the aim of the Union to elect the Executive Board the most capable members of the various groups comprising the Membership of the Union.

No person shall serve as an officer, trustee, member of the Executive Board, service representative, organizer, or other such employee if such service violates section 504 of the Labor-Management Reporting and Disclosure Act of 1959.

No person employed by this Local Union as a regular part-time or full-time service representative, organizer or support staff and covered by a collective bargaining agreement shall serve as an officer, trustee, or a member of the Executive Board.

Section 2. The Executive Board shall be elected by the Membership by secret ballot and shall hold office for a term of three (3) years unless removed for cause or until their successors have been elected and installed in office. Elections will be held in October. A candidate elected as President will also serve as a delegate to the OPEIU convention.

Section 3. No person shall be elected or appointed to an office in or as an Executive Board member of this Union unless they has been a member of this Union in continuous good standing as outlined in Section 19 of this Article for at least the preceding twelve (12) months, except that if a person is from a recently organized bargaining unit whose membership was not required to pay dues during all of the preceding twelve (12) months, the person shall be eligible for election or appointment to that bargaining unit's Member-At-Large seat if she/he has been a member in

OPEIU Local 459 Constitution and Bylaws

Section 19. Good Standing

- A. An employee in a position represented by Local 459 is not a member in good standing if the employee has not submitted either an application for membership form or an authorization for payroll deduction form and paid at least one (1) months dues.
- B. An employee who has signed a form allowing the deduction of dues from her/his paycheck but who has not had any dues deducted, has not paid any dues, and does not meet this requirement.
- C. An employee who has had dues deducted from her/his paycheck has met this requirement even if the employer has not forwarded the dues to Local 459. (A paystub may be used as proof of deduction.)

An employee can meet this requirement by giving one month's dues directly to Local 459.

ARTICLE 10 - RECOUNT

Section 1. A recount may be ordered upon presentation to the President of a petition signed by seven percent (7%) of members of the Union in good standing. The petition must be presented to the President within fourteen (14) calendar days after the election and this petition shall enumerate the reasons why such members believe a recount should be held. Upon receipt of a valid recount petition, the President shall call a special membership meeting to elect a Recount Committee of disinterested members of the Union to conduct the recount. The membership meeting shall be scheduled no later than fourteen (14) calendar days following the receipt of the recount petition. The notice for such a meeting shall be in accordance with Article 6 Section 4. A Recount Committee of three (3) members from different bargaining units shall be elected by the members present at the special membership meeting.

Section 2. The installation of all newly elected officers, and Executive Board members subject to a recount shall not be held until a final disposition has been made on the petition for a recount and/or actual recount.

hold membership, and that decision may be appealed to any body other than the Convention of the International Union, that person shall maintain membership until the ruling on the appeal by the membership of a Local Union or the Executive Board of the International Union upholds the deprivation of the basis upon which membership is held.

SECTION 3. ACTIVE MEMBERSHIP. (a) An individual is eligible to be an active member in the International Union and a Local Union if that individual is: employed within a collective bargaining unit or other unit of employees represented by or affiliated with the International Union or any Local Union; an employee or officer of the International Union or one of its subordinate bodies; an employee or officer of a Local Union or any Council or other federation of Local Unions; or a person who belongs to or joins a group that was granted full membership rights by the International Union prior to December 31, 2015. **Where such person is current with his or her dues, that person is an active member.** The term active member and member in good standing may be used interchangeably.

(b) An individual who is employed under a collective bargaining unit represented by an OPEIU local, who is an employee of a Local Union, International Union or any AFL-CIO federation of unions, will be eligible for active membership. Elected officers who sever the employment relationship which provided their eligibility for active membership will no longer be eligible for active membership July 1, 2021 or two years after they sever such employment or whichever is later.

(c) Compliance with reasonable membership requirements uniformly imposed by a Local Union, affiliated organization or Guild, and receipt by the Local Union, affiliated organization or Guild of the current dues and any required initiation or reinstatement fee, or any installment established by the Local Union, affiliated organization or Guild for payment of such fee, is required for an eligible individual to become an active member. Continued payment of dues, and if applicable, any remaining installments of the Local Union initiation or reinstatement fee, is required to maintain active membership.

(d) An active member who is not actively working due to layoff, illness, disability or a contractually provided leave of absence, and has applicable recall, reemployment or other employment rights which have not expired under the collective bargaining agreement or who has been discharged and has a grievance pending under the collective bargaining agreement may elect: (1) to continue to pay dues and maintain active membership for the period for which said recall, reemployment or other employment rights are valid or said grievance is pending; (2) to apply for another classification of membership provided for in this Article, if eligible; or (3) to apply for a withdrawal card.

(e) Active members shall enjoy all rights and privileges of membership in their respective Local Unions and in the International Union including, without limitation, the right to vote at all meetings and in all elections or referenda, to be nominated for and hold any office and to be elected a delegate to the International Union Convention, if otherwise qualified under their Local Union Constitution and Bylaws and this Constitution.

SECTION 4. NON-ACTIVE MEMBERSHIP. (a) An individual is eligible to be a non-active member if that individual is a former active member of the International Union, including an individual who has retired or resigned from the position which made them eligible to be an active member, who desires to maintain membership in a Local Union. Receipt by the Local Union of whatever dues or fees it may establish for non-active members that are currently due is required for an eligible individual to become a non-active member. Continued payment of such dues and fees is required to maintain non-active membership. One half of any such dues or fees shall be paid to the International Union at the same time that per capita are due, but not in excess of the applicable per capita.

(b) Non-active members may attend and address Local Union meetings at the discretion of the Local Union President. Such persons shall have no voice or vote in International Union or Local Union affairs, nor shall they be nominated for or hold an

and records, shall become the property of the International Union, to be held by the International Union in trust for a period of one (1) year during which time such property shall be returned to the Local Union if it is reconstituted. After such one (1) year period, such properties and assets shall become the property of the International Union and the funds placed in the International treasury to be used by the International Union for its general purposes.

(b) A Local Union scheduled to be dissolved or merged by the Executive Board may make an appeal to the Executive Board within sixty (60) days of notification of the dissolution or merger for reconsideration in accordance with procedures established by the Executive Board.

SECTION 3. All Local Unions shall have the following minimum number of officers: President, Vice President, Secretary-Treasurer, recording secretary and three (3) trustees, except that a Local Union may combine the office and duties of the recording secretary with the office and duties of the Secretary-Treasurer. In addition, a Local Union may provide in its Constitution and Bylaws for such other officers as it deems necessary for the conduct of its business, such as additional Vice Presidents, guard, guide, sergeant-at-arms, etc. A business representative or business representatives may also be designated as an officer or officers of the Local Union, or may be employed, in which latter case they need not necessarily be members of a Local Union at the time of hiring. Each Local Union shall have an Executive Board consisting of its President, Vice President or Vice Presidents, Secretary-Treasurer and such other additional officers or Executive Board members as the Local Union deems necessary for the conduct of its business. A Local Union may by provision in its Constitution and Bylaws provide for the election of some or all of its Executive Board members who are not officers from specified divisions of the Local Union by the members in each such division or the general membership. No person shall be elected or appointed to a Local Union office or as an Executive Board member unless such person has been a member of a Local Union in continuous good standing for at least the preceding twelve (12) months, unless the Local Union has been functioning (the period

OPEIU International Constitution

when a Local Union shall be deemed to be “functioning” shall be that commencing with the first month for which per capita payments are regularly made) for less than one (1) year; provided, however, that the Local Union may in its Constitution and Bylaws provide for some or all of its Executive Board members (not officers), who may not meet this requirement, to be elected or appointed from specific divisions of the Local Union. **Continuous good standing and good standing means compliance with the provisions of the Local Union and its Bylaws concerning payment of dues.** The Local Union is authorized to compensate its officers, Executive Board members and representatives as it sees fit.

SECTION 4. If any candidate nominated for any Local Union office resigns or is suspended from membership in the Local Union, dies or becomes permanently incapacitated between the time of the nominations for and the completion of the installation for such an office, the nominations for such office will be null and void and new nominations will be conducted prior to the election for that office. Permanent incapacity means that the candidate is unable to perform the duties of the office for which they have been nominated. Such a medical condition must be certified in a written opinion by a licensed physician chosen by the Local Union Executive Board.

SECTION 5. Applicants for membership in any Local Union shall be required to fill out application and authorization cards upon forms specified or approved by the Secretary-Treasurer of the International Union.

SECTION 6. The officers and Executive Board members of a Local Union shall be elected by a majority or a plurality of the votes cast as set forth in its Constitution and Bylaws. Any election of officers and Executive Board members of a Local Union shall be by secret ballot, except that a Local Union may provide in its Constitution and Bylaws that such officers and Executive Board members shall be declared duly elected if only one nomination is made for any such office. No voting by proxy shall be allowed.

Where geographic location may cause difficulties in following the usual election procedure, the International President may authorize mail balloting. The procedures for holding elections shall

Re: Allegation personal information about members has been shared

From: Austin Brown (austinb_94@yahoo.com)
To: electioncommittee@local459.org
Date: Monday, September 18, 2023 at 03:47 PM EDT

Hello,

Will you be at tonight's meeting? I would rather talk with you face to face or by phone since one of the people that are being accused has access and receives emails that are sent to this email address.

In Solidarity,
Austin Brown
Recording Secretary
OPEIU Local 459

On Monday, September 18, 2023 at 03:41:13 PM EDT, Election Committee <electioncommittee@local459.org> wrote:

Austin,
We are investigating an allegation that you and others have made that personal information about members has been shared in violation of the Local 459 executive board policy or DOL regulations. We reviewed the files and examined the computers. It appears that, for work related purposes, files were created on Local 459 computers that contain personal information. We found no evidence of personal information being shared in violation of the Local 459 executive board policy or DOL regulations. Do you have any evidence to show that personal information has been shared by anyone in violation of the Local 459 executive board policy or DOL regulations? If yes, what is it?
Thank you for your cooperation.
The Local 459 Election Committee
Jody Johnson
Nikki Johnson

From: Austin Brown <austinb_94@yahoo.com>
Sent: Friday, September 15, 2023 12:34 PM
To: Election Committee <electioncommittee@local459.org>
Subject: Re: Special Executive Board Meeting

Election Committee,

I know you may feel I have been a pain to you all, however this is exactly what I was trying to prevent.

There have been many cases where Sharon, Joe, and other working together members have been in violation of our bylaws and executive board policies.

This is a huge violation of our members rights to privacy. I hope this is taken very seriously by you all.

I have heard that these same people have told you about how much of a "monster" I am. I hope that this will shed some light on this entire situation. Please feel free to reach out to me if needed. My number is (269) 245-7253.

In Solidarity,
Austin Brown
Recording Secretary
OPEIU Local 459

21:03

 **Inbox**

2 Messages



RE: Facebook post regarding supposed wrong doings

Betsy,

We have reviewed the post made by Austin Brown. We reviewed the files and examined the computers. It appears that, for work related purposes, files were created on Local 459 computers that contain personal information. We found no evidence of personal information being shared in violation of the Local 459 executive board policy or DOL regulations.

The Department of Labor does not allow us to censor campaign literature. The regulations say even libelous campaign literature cannot be censored by us in any way.

Let us know if you have any questions.

The Local 459 Election Committee

Jody Johnson

Nikki Johnson



OPEIU Local 459 Constitution

continuous good standing since the effective date of the collective bargaining agreement for her/his bargaining unit.

Section 4. Notice of such meeting shall be given to all members in good standing at their last known physical and email address not less than fifteen (15) calendar days prior to the date of such meetings. The notice shall include the procedure for making nominations, the requirement for seconding nominations, the requirement to accept nominations and the fact that the member elected as President will automatically serve as a delegate to the OPEIU convention.

The nominations shall be declared open at the regular Membership meeting to be held in the month of August every three (3) years. The members present shall be allowed to conduct the nominations. All nominations must be seconded in order to be valid. A nomination for an officer must be seconded by a member not from the same bargaining unit as the person making the nomination in order for the nomination to be valid.

All persons nominated shall indicate their acceptance or declination: 1) verbally if present at the meeting; otherwise, 2) in writing no later than 7:00 pm one (1) week after nomination.

Section 5. An Election Board of three (3) members from different bargaining units shall be elected by the members present at the regular Membership meeting after nominations for the Executive Board have been closed except when there are no positions in which two (2) or more members have been nominated. No candidate in a contested election shall serve on an Election Board. The Election Board shall oversee the Union office staff performing any work required for the election.

Section 6. The Election Board is charged with the duty of conducting the regular election of officers and Executive Board Members of the Union. It shall make such regulations as will assure the members of a fair and honest election. Any candidate shall have the right to have an observer at the polls and at the counting of the ballots.

Section 7. The Election Board shall have the duty of enforcing the right to vote of the members and shall see that such right of franchise is not interfered with or hindered by anyone.

OPEIU Local 459 Constitution

Section 8. The elections shall take place at the regular Membership meetings in the month of October every three (3) years by the members present. The polls shall stay open for a thirty (30) minute period or until all members present have had an opportunity to vote whichever is longer. Notice of such meetings and a list of the candidates nominated for each position shall be mailed to all members in good standing at their last known physical and email address not less than fifteen (15) calendar days following the nominations. If there are no positions in which two (2) or more members have been nominated, this notice may be sent to stewards for posting in accordance with Article 6, Section 4, instead of to all members. If the only position(s) in which two (2) or more members have been nominated are Member-At-Large positions, this notice may be sent to members in bargaining units eligible to vote, instead of to all members.

Section 9. The ballot shall allow members to vote for individual candidates. Two (2) or more candidates shall be allowed to run as a slate. A slate is free to choose any wording for the slate designation up to five (5) words. Candidates running as a slate shall be identified on the ballot according to their affiliation with a particular slate. The slate designation shall be near each candidate's name on the ballot. However, a duly nominated candidate shall have the right to run as an independent candidate. Such candidates shall be identified with "Independent Candidate" near her/his name on the ballot unless no candidates are running as a slate.

Section 10. No member of this Union shall be permitted to vote unless they are in good standing in the Union as outlined in Section 19 of this Article. The Election Board shall examine the membership status of all members before permitting them to vote or opening any absent voter's ballot cast in accordance with Article 28 and shall compare the said status with lists to be supplied by the Secretary-Treasurer or designee.

Section 11. No votes for any member who is not duly nominated and listed on the ballot may be counted by the Election Board. (No sticker or write-in candidates.)

Section 12. There shall be no voting by proxy or mail ballot except as specified in Article 28.

Section 13. Only Election Board members or observers may challenge the right of a person to vote. Any person who's right to vote is in dispute, shall still be allowed to vote, but her/his ballot shall be placed in an unidentifiable envelope and sealed. This envelope shall be placed

ARTICLE 6 - MEMBERSHIP MEETINGS

Section 4. The Local shall send out notices **both electronically and by U.S. postal mail** for all meetings – regular and special – to Stewards for distribution to members ~~or~~ **and** for posting at least **seven (7) calendar days** ~~seventy-two (72) hours~~ before any such meeting convenes. The notice for any special meeting shall include any agenda items on which action may be taken.

Want to give more notice to members; an email will arrive faster. Not all stewards have an email address; notice via U.S. mail is retained

ARTICLE 7 - OFFICERS AND DUTIES

Section 3. Vice-President.

A. The Vice-President shall perform the duties of the President in the absence of that Officer, and, in case of resignation or death of the President, shall perform the duties of the President until such vacancy is filled by the next regular election as provided for in this Constitution and By-Laws. ~~He-she~~ **they** shall also preside when called upon to discharge ~~her-his~~ **their** duties. ~~He-she~~ **They** shall also be chairperson ex-officio of all standing committees and shall have such other powers and duties as are provided for in this Union's Constitution and By-Laws.

B. ~~He-she~~ **They** shall act as Chairperson of the Trustees and is required to call meetings of the Trustees in accordance with this constitution and by-laws. ~~He-she~~ **They** shall have the right to require the presence of all necessary officers at such meeting including the Secretary-Treasurer.

Section 4. Secretary-Treasurer. The Secretary-Treasurer shall perform the following duties:

A. ~~He-she~~ **They** shall keep all financial accounts of this Union and shall maintain correct and proper accounts of all its members. ~~He-she~~ **They** shall collect all initiation and reinstatement fees, dues, assessments and fines from members of this Union. ~~He-she~~ **They** shall make all disbursements for this Union as provided for in Article 14 of this Constitution and By-Laws. ~~He-she~~ **They** shall keep a correct record of all monies received and expended and prepare financial statements by calendar months to be submitted to the Secretary-Treasurer of the International Union monthly, and to the next regular membership meeting of the Local Union.

B. ~~He-she~~ **They** shall deposit all funds of this Union in a financial institution recommended by the Trustees. ~~He-she~~ **They** shall submit all her his books and records to the Trustees for audit and approval whenever called upon to do so, and, upon the expiration including funds, books and records of this Union. Before turning over such properties and assets to ~~her-his~~ **their** successor, ~~he-she~~ **they** must see to it that such successor is properly bonded. ~~He-she~~ **They** shall turn over all properties and assets, national Union or ~~her-his~~ **their** duly authorized representative when properly called upon to do so.

C. ~~He-she~~ **They** shall transmit monthly to the secretary-Treasurer of the International Union all financial obligations owing to the International Union not later than the fifteenth (15) day of the following month. ~~He-she~~ **They** shall follow such accounting and reporting procedures as shall be formulated by the Secretary-Treasurer of the International Union. ~~He-she~~ **They** shall be required to make monthly reports to the Secretary-Treasurer of the International Union of all dues-paying members on forms prescribed by the Secretary-Treasurer of the International Union.

D. ~~He-she~~ **They** shall be required to include in each monthly report the name and address of all newly initiated and reactivated members; and members who have withdrawn, died, or have been suspended, including members automatically suspended after three (3) months delinquency in dues, or expelled; ~~and the name of all persons to whom working permits were issued during the month.~~

This language has not been used in years. The intent is not to exclude anyone by removing this language

H. ~~He-she~~ **They** shall file annually with the Secretary of Labor, U.S. Department of Labor, a financial report containing the following information in such detail as may be necessary to disclose this Union's financial conditions and operations for its preceding fiscal year:

Reporting requirements may change under the law that would violate the amounts and information set forth in this Section

7. **Any other financial reports or changes in the amounts reported as required by law.**

- I. ~~He/she~~ **They** shall make available the information contained in the above-mentioned reports to all of the Local Unions' members.
- J. The Secretary-Treasurer shall preserve all records in accordance with provisions of Section 206 of the Labor-Management Reporting and Disclosure Act of 1959 which have been turned over to her/him until these records are at least five (5) years old. ~~He/she~~ **They** shall turn over to ~~her/his~~ **their** successor all such records to be kept until they are at least five (5) years old.

Section 5. Recording Secretary. The Recording Secretary shall keep **document** the Minutes of all Meetings and proceedings of the Union and the Executive Board.

ARTICLE 9 - CONDUCTING ELECTIONS OF THE EXECUTIVE BOARD

Section 2. The Executive Board shall be elected by the Membership by secret ballot and shall hold office for a term of ~~two (2)~~ **three (3)** years unless removed for cause or until their successors have been elected and installed in office. ~~Effective the elections held in 2017 terms shall be three (3) years. Elections will be held in October.~~ A candidate elected as President will also serve as a delegate to the OPEIU convention.

This was transitional language when terms changed from two (2) years to three (3) years.

Section 3. No person shall be elected or appointed to an office in or as an Executive Board member of this Union unless ~~he/she~~ **they** has ~~have~~ been a member of this Union in continuous good standing **as outlined in Section 19 of this Article** for at least the preceding twelve (12) months, except that if a person is from a recently organized bargaining unit whose membership was not required to pay dues during all of the preceding twelve (12) months, the person shall be eligible for election or appointment to that bargaining unit's Member-At-Large seat if ~~she/he~~ **he** has been a member in continuous good standing since the effective date of the collective bargaining agreement for ~~her/his~~ **their** bargaining unit.

Referencing the definition of good standing in Section 19.

Section 4. Notice of such meeting shall be given to all members in good standing at their last known **physical and email** address not less than fifteen (15) calendar days prior to the date of such meetings. The notice shall include the procedure for making nominations, the requirement for seconding nominations, the requirement to accept nominations and the fact that the member elected as President will automatically serve as a delegate to the OPEIU convention.

Adding an additional way to notify members of the meeting.

Section 5. An Election Board of three (3) members from different bargaining units shall be elected by the members present at the regular Membership meeting after nominations for the Executive Board have been closed **except when there are no positions in which two (2) or more members have been nominated.** No candidate in a contested election shall serve on an Election Board. The Election Board shall oversee the Union office staff performing any work required for the election.

Clarify the Election Board does not need to be elected if there are no contested positions.

Section 8. The elections shall take place at the regular Membership meetings in the month of October every three (3) years by the members present. The polls shall stay open for a thirty (30) minute period or until all members present have had an opportunity to vote whichever is longer. Notice of such meetings and a list of the candidates nominated for each position shall be mailed to all members in good standing at their last known **physical and email** address not less than fifteen (15) calendar days following the nominations. If there are no positions in which two (2) or more members have been nominated, this notice may be sent to stewards **for posting** in accordance with Article 6, Section 4, instead of to all members. If the only position(s) in which two (2) or more members have been nominated are Member-At-Large positions, this notice may be sent to members in bargaining units eligible to vote, instead of to all members.

Adding additional way to give members notice of the election and meeting

Clarify what the Stewards are to do with the notice.

Section 10. No member of this Union shall be permitted to vote unless ~~he/she~~ **they** ~~is~~ **are** in good standing in the Union **as outlined in Section 19 of this Article.** The Election Board shall examine the membership status of all members before permitting them to vote, or opening any absent voter's ballot cast in accordance with Article 28 and shall compare the said status with lists to be supplied by the Secretary-Treasurer **or designee.**

Referencing the definition of good standing in Section 19.

Clarify it is not always the Secretary Treasurer who supplies list.

ARTICLE 11 - ELECTION OFFENSES

Section 1. Any member found guilty by the Trial Board, **as outlined under Article 20 Section 4,** of tampering with ballots, illegal voting, committing fraud, violence, coercion, or other conduct not included in

Reference to where the Trial Bard is defined.

RE: Question

From: Ronda Ackerson (rackerson@local459.org)

To: austinb_94@yahoo.com

Cc: electioncommittee@local459.org

Date: Friday, October 13, 2023 at 03:10 PM EDT

Austin – we had a lot of mail returned between the three (3) mailings so far this year – one being for the delegates. If I had to guess, I'd say we had around 150-200 returned from the membership meeting notice for EXBD nominations.

We've been doing a lot of database updates in anticipation of the election (and many negotiations), so we currently have around 2,000 home email addresses on file.

Ronda Ackerson
Office Coordinator
OPEIU Local 459
(o) 517-887-8844
(f) 517-887-8848



Visit our new website @ www.local459.org

From: Austin Brown <austinb_94@yahoo.com>
Sent: Friday, October 13, 2023 1:40 PM
To: Ronda Ackerson <rackerson@local459.org>
Subject: Question

Ronda,

Would you be able to provide me with how many of the Nomination Meeting notices were returned to sender? I'm not sure if this is a number you have on file or if you could give me a rough estimate, that would also work.

Also, could you provide me with the amount of personal email addresses we have on file for active members? I do not want their email addresses, just curious to how many we have on file.

In Solidarity,