

## **APPENDIX A**

### **UPTE ELECTION CODE**

(Amended June 2023)

This Election Code is for use in UPTE CWA Local 9119 elections as provided in the CWA constitution. The Election Code helps keep election procedures consistent and legal. A copy of the Election Code shall be given to each member of the Election Committee.

#### **I. UPTE CWA LOCAL 9119 ELECTION RULES**

##### **1. Nominations**

- a. These nominating procedures shall govern nomination and election of officers, delegates and alternate delegates; the appointment, selection or election of stewards and committee members; and the filling of vacancies.
- b. Any member eligible to hold office may be nominated for election provided the nominee consents. Nominations may be submitted to the Election Committee by mail, email, website or fax, during the nomination period, subject to confirmation by the Elections Committee. Nominations require the following: 1) name of nominee, 2) position intended for nominee, 3) statement from or on behalf of nominee, 4) name of nominator.
- c. Members of the Election Committee are not eligible to run for office. If an Election Committee member wishes to run for office, that person must resign from the committee before the beginning of the nomination period.
- d. All members shall receive a minimum of 15 day's notice of the opening of the nomination period. The nomination period itself shall last at least 15 days.
- e. At the close of the nomination period, the Election Committee will provide each candidate with a copy of the Election Code and a list of the members of the Election Committee. In the event of change in Election Committee personnel during the election period, all candidates will be notified immediately.
- f. Any member may challenge the eligibility of a nominee by filing such a challenge with the Election Committee. The Election Committee will make a determination regarding the challenge and

report its determination to the membership prior to the election. The membership will vote on whether to accept or reject the Committee's ruling.

## 2. Campaigning

- a. Each candidate will be afforded a reasonable opportunity to have campaign materials distributed by UPTE-CWA to the membership. The expense of such distribution shall be borne by the candidate. There will be a maximum spending limit of \$10,000 for any single candidate for any single office for all campaign expenses. If requested by the Executive Board, candidates shall submit a full expense report to the Election Committee at the conclusion of the Election.
- b. Each candidate will be treated equally with respect to the conditions and expenses of the distribution of campaign literature and access to membership lists. The Election Committee may authorize the inclusion of candidate campaign literature with the Official Election mailing (with printing at the candidate's expense).
- c. No UPTE-CWA funds nor employer funds shall be used to promote the candidacy of any individual. The use of employer stationery, facilities, equipment or personnel in connection with any campaign is prohibited. Use of plain union stationery, facilities, equipment or personnel in connection with any campaign is prohibited, with the following exception: a limited number of electronic mailings can be distributed via the systemwide office. Use of union stationery is prohibited. Use of UPTE or UPTE-CWA 9119 or CWA logo on campaign literature is prohibited. No UPTE publication shall endorse any candidate for UPTE office.
- d. No member may campaign during time that is paid for by any union or any employer. Campaigning incidental to regular union business would not be a violation of this section or federal law.

## 3. Eligibility to Vote.

- a. All members in good standing are eligible to vote. The membership list will be based on the most recently available dues deduction list from the employer, augmented by a list of additions. The secretary shall furnish the Election Committee with a listing of eligible members not appearing on the dues deduction list. This listing will include:
  1. members who pay their dues directly to the union, including active retirees.
  2. members who are on medical or maternity leave.

3. members who are on furlough up to four months.
    4. members who have been involuntarily separated from the University and are currently involved in the internal grievance process.
    5. new members whose names do not yet appear on the dues deduction list.
  - b. Questions on the membership status of an individual whose name does not appear on the membership list should be resolved by the Election Committee in conjunction with the treasurer. Questions concerning the identity of a member may be resolved by the presentation of a membership card, driver's license, or similar form of identification.
  - c. In the case of an election covering a particular bargaining unit (such as a contract ratification vote) where there is a dispute between the union and management as to the make-up of the bargaining unit, eligibility to vote will be consistent with the union's position in the dispute.
4. Challenging a Voter.
  - a. Any member may challenge the right of a person to vote.
  - b. Some reasons for such challenge are:
    1. The person is not a member in good standing
    2. The person attempting to vote is not the member on the list.
    3. The member has already voted.
  - c. The Election Committee shall by vote decide each challenge.
5. Observers.

Each candidate may have observers at each meeting of the Election Committee and at each polling place on the day of the election and at the location(s) where the ballots are being counted. Such observers must be members of UPTC-CWA 9119. Observers may speak at Election Committee meetings, may challenge a voter or the counting of a ballot, but may not conduct any campaigning while acting as an observer.
6. Notice of Election.

A notice of election will be mailed to each member by paper and electronically to the last known preferred addresses not less than 15 days prior to the election. This notice shall include a request to specify if a paper ballot is preferred.
7. Ballots
  - a. The ballot shall contain the office and the names of the nominees. Write-in votes are not permitted.

- b. Position on the ballot shall be determined by a drawing conducted by the Election Committee.
  - c. Each ballot mailing (by post or electronically) shall contain a 200-word limit candidate statement and rebuttal. No censorship of campaign statements or rebuttals is permitted.
8. Voting Procedure
- a. Mail Ballots
    - 1. Each member eligible to vote by mail will be sent:
      - a. One notice of election with instructions.
      - b. One secret ballot.
      - c. One ballot envelope. This envelope will be marked "Secret Ballot Envelope: Make no marks on this envelope."
      - d. One return addressed, postage-paid mailing envelope. The return address should be to a post office box. The upper left hand corner of this envelope will be printed with three lines for the voter to print their name and their campus, and sign their signature.
    - 2. Each voter must:
      - a. Mark the ballot as provided in the instructions.
      - b. Fold and place the ballot in the ballot envelope and seal it.
      - c. Place the sealed ballot in the return addressed envelope, seal it and affix his/her name, campus and signature on the upper left-hand corner of the return addressed envelope. An individual's ballot may not be counted unless there is sufficient information on the return addressed envelope to identify the individual and verify his/her eligibility to vote.
      - d. In order to ensure the security of the ballots, mail ballots should be returned to a post office box. If UPTE-CWA chooses to have ballots returned to the UPTE-CWA office, the Election Committee must make arrangements to provide security for the returned ballots.
  - b. Voting Procedure - By Electronic Means or at a Meeting or Polling Place
    - 1. The polls should be opened at the time stated in the notice.
    - 2. The voter must be identified and checked off on the membership list before a ballot is issued to the voter.

3. A member of the Election Committee shall initial each ballot as it is presented to a voter.
4. The voter then marks the ballot, folds it, and places the ballot into the ballot box.
5. A voter who spoils his or her ballot may exchange it for another ballot by surrendering the spoiled ballot to the Election Committee.
6. The following pertains to electronic balloting.
  - a. Electronic voting will provide anonymity and security to members that is equal to or better than the paper ballot methodology.
  - b. The Election Committee will notify members of vendor choice at least 90 days prior to the election.
  - c. No electioneering is allowed in the voting area.
  - d. The polls will be closed promptly at the time stated in the notice for election. Any voter in line at that time will be permitted to vote.
  - e. Absentee paper ballot provisions – UPTE may adopt an absentee ballot provisions by vote of the membership prior to conducting a election. Note: While UPTE-CWA is not required to adopt an absentee ballot provision, they will be required to do so where UPTE-CWA knows in advance that a substantial number, or a particular segment of the members, will not be able to exercise their right to vote in person. In the event absentee ballots are necessary, UPTE-CWA must provide its members with reasonable notice of the availability of such ballots.

A member must make a written request for an absentee ballot to the Election Committee Chair no later than 7 days prior to the election. Absentee ballots may be dispensed by the Chair. Absentee ballots will be received until noon on Election Day. The polls will be closed promptly at the time stated in the notice for election. Any voter in line at that time will be permitted to vote.

## 9. Counting the Ballots.

- a. Electronic ballots will be tallied by the vendor chosen to provide the balloting service. A summary of the results will be compiled and provided to the Election Committee.
- b. Paper ballots:
  1. Check the upper left-hand corner of the return addressed envelope to see that the name corresponds with the name on the eligibility list.
  2. Open the return addressed envelope and remove the ballot envelope, keeping the return addressed envelope as part of the election record.
  3. Open ballot envelopes and stack the ballots for counting purposes in lots of 10, 25, and 50.
  4. Ballots missing the ballot envelope will be considered blank ballots.
  5. Ballots or ballot envelopes with identifying marks (name or signature) will be considered blank ballots.
- c. Meeting or Polling Place:
  1. If used, absentee paper ballots must be checked against the voting list, using the mail ballot procedure. Absentee ballots received from members who have not voted are opened, left folded, and placed in the ballot box.
  2. Open all ballot boxes and empty the contents onto a table. Stack the ballots for counting purposes in lots of 10, 25, or 50.
- d. General
  1. Each candidate may have observers present at the counting of the paper ballots. Observers may request to see electronic vote tallies once they are available to the Election Committee from the balloting vendor after the close of the voting period.
  2. Questions regarding voter intent in marking a ballot, if questioned, will be decided by a vote of the Election Committee.
  3. Irregularities in marking the ballot for one office will void the vote for that office only.
  4. The Election Committee shall tally the ballots in all elections and notify the membership of its tentative certification of the results. Absent a challenge to the election, the tentative certification shall become final ten days thereafter.

5. Any challenge to the conduct of an election must be filed in writing with the Election Committee within 10 days of the tentative certification of the results. The Election Committee shall rule on any such challenges and shall within 20 days of the tentative certification of the results make a final determination or certification.
  6. Both the tentative certification and the final certification shall be given to the President and Secretary as soon as possible. The results shall also be reported at the next membership meeting.
10. Election Record
- The Election Committee shall turn over to the Secretary all records, including eligibility list, used and unused ballots, tally sheets, etc. The Secretary shall keep them for one year from the date of the election. At the end of one year, the secretary and the chair of the Election Committee shall destroy the entire record.

## II. COUNTING BALLOTS

1. All ballots cast by eligible voters, except blanks, must be counted.
2. Blank ballots
  - a. Blank ballots are simply ignored; they are neither counted for any purpose nor are they reported.
  - b. Ballots for obvious non-candidates (i.e., Mickey Mouse, Donald Duck) are treated as blank ballots because these type of votes are viewed as expressing a desire not to vote and therefore equal blanks.
3. Illegal ballots and void votes
  - a. Ballots cast by individuals not entitled to vote are recorded as void and are not counted for any purpose.
  - b. If a member leaves one or more choices blank on the ballot containing more than one office to be filled, the blank spaces in no way affect the validity of the spaces he/she has marked correctly. For purposes of the offices not marked, the ballot is treated as a blank and not counted for any purpose.
  - c. If the member votes for too many candidates for a given office, that particular section of the ballot is illegal (or void) because it is not possible to determine for whom the member desired to vote. It is therefore not counted for any candidate. However, such a ballot is counted for purposes of computing the number of votes needed to win.

- d. Small errors, like the misspelling of a word or name, do not make a vote illegal (or void) if the meaning of the ballot is clear.
  - e. Unintelligible ballots are treated as illegal (or void) votes. They are counted for purposes of computing the number of votes needed to win, but are not counted for any candidate.
4. Spoiled paper ballots  
A spoiled paper ballot is one where the voter marked it wrong and turns it in and asks for another ballot. Spoiled ballots are reported as spoiled ballots and are not counted for any purpose.
5. Challenged ballots  
The Election Committee shall, by vote, decide each challenge. Challenged ballots need not be resolved or counted for any purpose unless they may affect the outcome of the election, either because they might change the number needed to win or because they might make a difference in determining the top vote getter.  
If challenged ballots must be resolved, they are recorded as both challenged and as whatever the resolution is.

FOR MORE INFORMATION ON COUNTING AND REPORTING OF BALLOTS, SEE "ROBERTS' RULES OF ORDER"

### III. **ELECTION COMMITTEE RESPONSIBILITIES**

1. All locals establish an Election Committee. The committee's job is to conduct all elections and make sure that they comply with:
  - a. The UPTE-CWA 9119 Constitution and Election Code
  - b. CWA Constitution Candidates for any office or for delegate to CWA's convention are not permitted to serve on the Election Committee.
2. The Election Committee must identify and check off on the official membership list each voter. The committee must verify that the individual voting is a member in good standing and make certain that each member votes only once.
3. Any member may challenge the right of a person to vote. The election committee shall, by vote, decide each challenge.
4. The Election Committee receives electronic voting tallies from the balloting vendor and also tallies paper ballots in all elections and notifies the membership of its tentative certification of the results. The nominee for any office who receives the majority of the votes cast is declared elected. If no nominee has a majority on first ballot, a new vote is taken with only the names of the two candidates having received the greatest number of votes appearing on the second ballot.



Candidates may be elected by a plurality of votes cast for any office except that of President, Executive Vice President, Vice President, Secretary, Treasurer, or Secretary-Treasurer; these shall be elected by majority vote.

5. In any case where there is only one nominee for office, such nominee shall be declared elected. In all other cases, voting shall be by secret ballot.
6. Election of delegates and alternates to the UPTE Convention shall be in accordance with the provisions of this Elections Code, with the following exception: candidates will be ranked in order of the highest votes to the lowest, with delegate positions going to those candidates with the highest number of votes.
7. The Election Committee handles and decides all questions concerning the conduct and challenges of elections. Any challenge to the conduct of an election must be filed within 10 days of the tentative certification of the results. The Election Committee must rule on any such challenges and must within 20 days of the tentative certification of the results make a final determination or certification. The Election Committee's decision on these matters is subject to appeal to the Executive Board. No UPTE funds shall be used to institute legal action outside the union to challenge election rulings.
8. All ballots, including used, unused and challenged ballots, envelopes used to return marked ballots in a mail ballot election, tally sheets, and related election documents, must be kept for one year by the election official designated in the bylaws or by the local secretary if no other official is designated. The election records should be sealed.

#### **IV. GENERAL RULES FOR CONDUCTING ELECTIONS**

1. UPTE-CWA and its officers, must comply with all reasonable requests of any candidate to distribute campaign literature at the candidate's expense to all members in good standing of the union and to refrain from discrimination in favor of or against any candidate with respect to the use of its of members. Whenever a union or its officers authorize the distribution of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution

2. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.
3. A reasonable opportunity shall be given for the nomination of candidates. All members in good standing shall be eligible to be a candidate and to hold office and shall have the right to vote for or otherwise support the candidate or candidates of their choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by a union or any member thereof.
4. Notice of the election must be sent to each member at the last known preferred address at least fifteen days prior to the election.
5. Each member in good standing shall be entitled to one vote.
6. No member whose dues have been withheld by an employer for payment to a union pursuant to the member's voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in a union because of alleged delay or default in the payment of dues.
7. The votes cast by members of each local labor organization shall be counted; and the results published separately.
8. The ballots and all other records pertaining to the election must be preserved by the election officials designated in the constitution and bylaws or the secretary, if no other official is designated, for one year.
9. The election shall be conducted in accordance with the constitution and bylaws of the union insofar as they are not inconsistent with the provisions of the law.
10. No money received by any labor organization by way of dues, assessment, or similar levy, and no money of any employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such money of labor organizations may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

#### **V. THE ROLE OF OBSERVERS**

1. Each candidate is allowed to have observers at each polling place on the day of the election, at the mailing and at the counting of paper ballots. A candidate may have as many observers at the counting of the ballots as may be necessary to observe the actual counting and ensure a fair election.

2. In paper ballot elections, candidates must be permitted to have an observer present at the preparation and mailing of the ballots.
3. Observers must be members of the local.
4. Observers may speak at Election Committee meetings and may challenge a voter or the counting of a ballot.
5. Observers should be allowed to stand in a place where they can clearly observe the tally process but should not be allowed to interfere with that process.
6. Observers are not allowed to touch the ballots or the membership lists
7. Observers may not conduct any campaigning while acting as an observer.

**VI. CWA CONSTITUTIONAL REQUIREMENTS FOR UNION ELECTIONS**  
**(Applicable to UPTE-CWA Elections)**

Article XV of the CWA Constitution governs the administration of CWA local elections.

1. Officers of UPTE-CWA 9119 shall be at least a President, Vice President, and Secretary-Treasurer or Secretary and Treasurer. Beginning with elections held in 1987, no member shall be permitted to hold more than one such office.
2. Beginning with the elections held in 1972, the term of office for local officers shall be three years or until their successors have been duly elected and qualified.
3. Locals shall adopt bylaws or rules to govern the nomination and election of officers, members of a governing body, delegates and alternate delegates; the appointment, selection or election of stewards and committee members; and the filling of vacancies.
4. Locals shall select an election committee which shall conduct all elections and referenda in accordance with the constitution, local bylaws or rules and federal law.
5. All questions concerning the conduct and challenge of elections shall be determined by the election committee subject to the right of appeal to the governing body and membership of the local.
6. The election committee shall tally the ballots in all elections and notify the membership of it tentative certification of the results. Absent a challenge to the election, the tentative certification shall become final in ten days thereafter.
7. Any challenge to the conduct of an election must be filed in writing with the election committee within 10 days of the tentative certification of the results. The election committee shall rule on any such challenges and shall within 20 days of the tentative certification of the results make a final

determination or certification. Such determination or certification shall be subject to the right of appeal to the governing body and to the membership of the local.

8. While a challenge to an election is pending, the officers certified by the election committee in its final determination shall be the elected officers of the local. Those officers shall remain in office unless the election committee's determination is reversed by the Executive Board of the union or a new determination is made pursuant to the results of a properly ordered rerun election.
9. Only members of the union in good standing shall be eligible to vote or hold elective office. No elected officer of the union or of a local shall take office unless the elected officer is eligible under the constitution and federal law
10. The election by locals of officers, members of a governing body and delegates and alternate delegates to the union convention shall be by secret ballot among the members in good standing. The nominee in any election receiving a majority of the votes cast shall be declared elected; provided, however, that locals may provide in their bylaws or rules for the election of candidates by a plurality of the votes cast in any election, other than an election of local president, (executive) vice president, secretary, treasurer or secretary-treasurer.

## **VII. DELEGATES TO CWA CONVENTIONS**

1. The CWA Constitution provides in Article XV, Section 4(e) that delegates and alternate delegates to the CWA Conventions must be elected by the membership by secret ballot among members in good standing. The federal law requires that when officers are to be nominated and chosen by a convention of delegates, the delegates must be elected by secret ballot.
2. Delegates to CWA Conventions must be elected by the membership of UPTC-CWA 9119 they represent at the Convention. The UPTC CWA 9119 President, having been elected by the full membership during election years, will serve as one delegate to CWA national conventions, as declared in the duties of the Office of the President. Additional delegates may be elected by geographic, craft, shift, or similar reasonable basis, only if each such category is to be represented at the Convention by a delegate and every member of the local is represented by one such category. However, Table officers of UPTC-CWA 9119 such as President, (Executive) Vice President, Secretary, and Treasurer must be elected by the entire membership.

3. Proxy Voting – The law does not prohibit voting by proxy, and the CWA Constitution permits proxy voting for locals composed of less than 200 members which may assign its vote to a delegate from another Local attending the Convention. No Local should be allowed to vote more than one such assignment.
4. The assignment must be made pursuant to a formal vote of the membership of the assigning Local on the following questions: (1) whether the Local desires to send a delegate from the Local to the CWA Convention; (2) if not, does the Local desire to have its votes cast at the CWA Convention by a delegate from another CWA Local; and (3) does the local desire to elect an alternate delegate if, for any reason, the elected delegate cannot attend the Convention. Nomination and election procedures for the delegate and alternate delegate, if any, who will be assigned to vote the proxy of the assigning local must meet the requirements of the law and the CWA Constitution with respect to nomination, the statutory 15 day mail notice of election and the secret ballot. Basically, the same nomination, election and voting procedures for choosing delegates in locals with 200 or more members should be followed for locals of less than 200 members. The only difference is the limitation of candidates to delegates of another local who would cast the proxy of the assigning local.

#### **VIII. SUGGESTED ELECTION DAY SUPPLIES AND PROCEDURES FOR LOCAL USE**

The local election procedures that follow cover elections conducted at polling places, at meetings, and mail ballot elections. Each local should determine which method it desires to follow.

1. Mail Ballot Election
  - a. Preparation and Supplies
    1. Membership list.
    2. A set of address labels corresponding to the membership list.
    3. Notice of Election.
    4. Ballots (no candidates for office can have control or access).
    5. Postage-paid mailing envelopes.
    6. Ballot envelopes.
    7. Return address envelopes to a Post Office box.
    8. Post Office box. Ballots should be collected by no fewer than two members of the election committee.

9. At least two election committee members should mail the ballots. It is recommended that the actual mailing take place at the Post Office and that the election committee members secure a receipt for the number of pieces mailed.

10. Copies of local constitution, the Election Code, and the UPTC-CWA Constitution.

b. Election Day Procedure

Election Committee members (at least two) should collect the ballots from the Post Office on the scheduled day in the presence of the candidates or their observers. The ballots should be taken directly to the designated place and counted promptly.

2. Manual Ballot Election

a. Preparation and Supplies

- Membership list
- Ballots
- Ballot boxes. A cardboard box large enough to accommodate the maximum number of ballots possible makes a fine ballot box. The ballot box should be left open for inspection by all members of the Election Committee and by any other interested parties until fifteen minutes before the voting is to begin. Then the ballot box should be sealed with tape, leaving one opening on top for ballots. The members of the election committee should affix their signatures to the tape on various sides of the box. In the event the ballot box is removed from the voting area, the ballot slot should be sealed by sealing tape (scotch tape is unacceptable), and the election committee members should sign that seal. The sealed box is unsealed only after inspection of the seal shows that it was in fact the seal placed by the election committee.
- Tables and chairs.
- Miscellaneous supplies. Pencils and/or pens, paper, identification badges for committee, scotch tape, masking tape, rubber bands, large envelopes, and a large carton.
- Copies of the Election Code, and the UPTC-CWA.