



## FREQUENTLY ASKED QUESTIONS

### Union Elections, Meetings, MOU'S and LM Reports

**Q. The Union is required to hold officer and/or delegate elections, but that is now impractical or impossible due to the COVID pandemic. What should we do?**

**A.** The U.S. Department of Labor has issued an advisory on union elections for unions affected by COVID-19. (A copy appears below.) The advisory generally states that all labor organizations are expected to make a good faith effort to conduct elections in a timely manner. In the event a complaint is filed with the Department it will first seek to schedule an election through a voluntary compliance agreement before seeking civil enforcement of a LMRDA violation. Under these current circumstances, one can assume that the AFSCME Judicial Panel will find it reasonable to have postponed elections if every effort is made to have the election as soon as possible when the crisis subsides. Elections that are covered by the LMRDA (e.g., delegate elections to the International Convention or officer elections in affiliates who represent members in the private sector) are also subject to the civil enforcement provisions of the Act.

Affiliates who traditionally conduct in person elections may wish to conduct a mail ballot election. This is generally permitted, unless the affiliate's constitution specifically prohibits using a mail ballot for elections. The AFSCME Local Union Election Manual has a section focused on mail ballot elections and is available on the AFSCME website. The International Union is available to answer questions, which should first be directed to your OFS Regional Director or the Office of General Counsel.

**Q. Our constitution requires that we hold monthly executive board and/or membership meetings. How can we conduct routine business while social distancing interferes with face-to-face meetings?**

**A.** Article X, Section 51 of the International Constitution allows for regular or special meetings of officers, executive board, or membership (excepting conventions or elections) to be conducted by audio or video teleconference. While that provision requires the union executive board to adopt a written policy that adheres to the policy set forth in Appendix E of the Constitution, if an affiliate has not already formally adopted such a policy, your leadership may adopt the policy by audio or video teleconference, provided you adhere to the requirements of Appendix E.

If a teleconference membership meeting is not feasible (because your membership is very large, for example), then you will need to plan to return to regular membership meetings as soon as it is safe to bring your membership together. In the meantime, the union should continue to prepare monthly financial reports and the Executive Board, at least, should meet using video or teleconference to conduct necessary business of the affiliate and record meetings minutes.

**Q. Our Council is already scheduled to conduct its convention, or must hold it by a certain date, but that is now impractical or impossible due to the COVID pandemic. What should we do?**

**A.** It may not be practical in the current environment to hold affiliate conventions. While we don't know how long the social distancing recommendations or meeting restrictions will remain in place your union should not delay in considering whether to postpone the convention. If the convention is postponed, you should provide notice to the affiliates and delegates, and plan to reschedule it for as soon as is feasible after the emergency passes.

**Q. If we have a new collective bargaining agreement or MOU that we need our members to consider and vote upon, how can we do this if we cannot meet in person?**

**A.** The AFSCME International Constitution gives members the right to full participation, through discussion and vote, to ratify collective bargaining agreements (including MOUs that impact terms and conditions of work), and to have pertinent information in order to exercise this right. Members should be advised in advance of the proposed agreement, and the upcoming vote to ratify. There is no defined number of days' notice required, so apply a reasonable notice under the circumstances.

Votes may be done by mail, in meetings, by telephone, by the internet, or any other way that accurately and fairly allows all members to vote. Votes in meetings may be done by voice vote or show of hands (including in a telephonic meeting hosted by an operator), or written ballot. Secret ballot is not required. However, no matter the method, an accurate record of the vote should be recorded. Remember that members have the right to pertinent information before voting whether to ratify an agreement. This right to information requires an adequate explanation of the proposed agreement, including an explanation of any significant changes from the previous agreement. Membership must be given enough information to allow them to make an informed choice.

**Q. What type of services are available for conducting teleconference meetings that meet the requirements of Appendix E?**

**A.** There are several audio and/or video teleconference platforms that allow for full membership participation as is required under the International Constitution. Below are a few suggested platforms. Please note that some of these platforms have costs associated with them.

**AT&T** – <https://www.business.att.com/categories/collaboration-and-conferencing.html>

**Free Conference Call** – <https://www.freeconferencecall.com>

**Go to Meetings** – <https://www.gotomeeting.com>

**Hangouts Meet** – <https://gsuite.google.com/products/meet/>

**Microsoft Teams** – <https://teams.microsoft.com/start>

**One Voice** – <https://onevoiceinc.com/>

**Teletown Hall** – <https://teletownhall.com>

**Uber Conference Call** – <https://www.uberconference.com>

**Zoom** – <https://zoom.us>

- Q. Our union's Labor-Management Report (e.g., LM-2, LM-3 or LM-4) is due to the Department of Labor soon. Due to COVID-19 and/or related restrictions, we are unable to submit the report by its due date. What should we do?**
- A.** The Department of Labor has issued an advisory on Labor Management Report compliance during the COVID-19 pandemic. (A copy appears below.) Many affiliates are required to file their report no later than March 31. The advisory states that any union that is unable to meet the due date for submitting their report should contact DOL-Office of Labor Management Standards (OLMS) BEFORE the due date and describe the circumstances necessitating additional time, and provide a date certain by which the report can reasonably be submitted. Failure to advise OLMS of the need for an extension may result in enforcement action by the Department, which is simply a lawsuit seeking an order to file the report. Unless there is an intent to hide or not report something, normally no other penalties would apply. OLMS can be reached at: (202) 693-0123 or [olms-public@dol.gov](mailto:olms-public@dol.gov).

# Office of Labor-Management Standards (OLMS)

## OLMS News

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### **Advisory on Union Officer Elections and Public Disclosure Reporting in Areas Affected by the Coronavirus (COVID-19)**

Due to the Coronavirus (COVID-19), the Department of Labor's Office of Labor-Management Standards (OLMS) issues this advisory regarding the labor union officer election requirements under Title IV and the reporting requirements of Title II of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). OLMS recognizes that due to the disruption caused by COVID-19, it may be difficult or impossible for some unions to conduct timely union officer elections. Similar difficulties may confront unions, labor relations consultants, and employers faced with public disclosure filing requirements. OLMS issues this advisory for those unions, employers, or labor relations consultants affected by COVID-19.

**Elections:** The LMRDA requires that all national and international labor unions elect their officers not less often than every five years. Officers of intermediate bodies, such as general committees, system boards, joint boards, joint councils, conferences, and certain districts, district councils and similar organizations, must be elected at least every four years, and officers of local labor unions not less often than every three years. See the OLMS [Electing Union Officers](#) publication for further information.

Labor unions affected by COVID-19 must still make a good faith effort to conduct officer elections within LMRDA timeframes. OLMS has jurisdiction to file a civil enforcement action concerning a failure to hold a timely election after receipt of a complaint from a union member who has first sought a remedy from his or her union. If OLMS receives a complaint from a union member solely regarding a union's failure to hold an election within the LMRDA timeframes, but the election has been completed prior to OLMS receipt of the complaint, then OLMS will take no enforcement action. If OLMS receives a complaint regarding a union's ongoing failure to hold an election, and that failure was attributable to COVID-19, OLMS will promptly seek a voluntary compliance agreement with the union. The agreement would require the union to hold the election when practicable on a date certain. With such an agreement, OLMS will not seek a civil enforcement action based on the complaint, provided the election is held in conformance with the agreement.

**Public Disclosure Reports:** Labor unions, labor relations consultants, and employers affected by COVID-19 must make a good faith effort to file [required public disclosure reports](#). The failure to file a timely and complete report is an ongoing violation of the LMRDA. OLMS has jurisdiction to file a civil enforcement action concerning a failure to meet reporting requirements. OLMS will not, however, pursue a civil enforcement action with regard to a delinquent or deficient report when these reporting violations are attributable to COVID-19. Unions, employers, and labor relations consultants wishing to take advantage of this enforcement policy should contact OLMS before the report is due, describe the circumstances necessitating additional time, and provide a date certain by which the report can reasonably be submitted. Under these circumstances, OLMS will not lodge a civil enforcement action to obtain the delinquent or deficient report.