

# New York State Lifeguard Corps / Jones Beach Lifeguard Corps Election Planner

Date	Activity
	Update Membership List and Verify Eligibility
	Update and Revise Election and Campaign Rules
	Notice of Election and Nominations sent to members
	Deadline for submission of verified petitions and candidate biography of no more than 500 words.
	Verify candidate eligibility
	Date union membership lists will be made available for candidates to inspect but not copy by appointment with the election committee
	Ballots prepared, approved, and distributed by the election committee
	Election
	Ballots Counted
	Election Results Announced

# **ELECTION AND CAMPAIGN RULES**

## **New York State Lifeguard Corps / Jones Beach Lifeguard Corps**

### **1. Constitution and Bylaws**

The nomination and election of NYSLC/JBLC officers will be conducted in accordance with the NYSLC By-Laws dated July 16<sup>th</sup>, 2019, the JBLC Constitution and By-Laws dated February 15<sup>th</sup>, 2022, and the Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin Act), as amended.

### **2. Term of Office**

The officers elected will serve a two-year term which will begin on October 1<sup>st</sup> and end on September 30<sup>th</sup>. Officeholders shall remain in office until successors assume office. The NYSLC Elections shall take place in even years and the JBLC Elections shall take place in odd years.

### **3. Eligibility to Hold Office**

As provided in Article IV of the NYSLC Bylaws:

1. Membership in this organization shall be open to any of the following titles, and such other similar titles that may be created, employed by the State of NY after successful completion of the lifeguard certification process, for the sole purpose of providing lifeguard services.

- a. Chief Lifeguard
- b. Assistant Chief Lifeguard
- c. Field Captain (LISPRC)
- d. Field Lieutenant (LISPRC)
- e. Supervising Lifeguard (LISPRC)
- f. Lifeguard 2
- g. Lifeguard 1

2. Membership status shall begin with the registration by the New York State United Teachers (NYSUT) office, either through a payroll deduction authorization card or as letter of application accompanied by a dues payment.

3. The membership year shall extend from June 1 through May 31. Membership in good standing shall be maintained through payment of dues as defined in these bylaws, and shall be on a continuing basis throughout the membership year.

### **4. Nomination Notice**

A notice of the nomination period and general election will be emailed to all members in good standing no less than 15 days prior to the election. All dates for the election shall be determined by the Election Committee.

### **5. Candidate Eligibility Determinations**

The Election Committee will review the master membership list to determine the eligibility of all nominees. Eligible nominees will be notified of their eligibility, mailed a copy of these rules, and

asked how they wish their names to appear on the ballot. Ineligible nominees will be advised of the reason(s) they are not eligible to run for office.

### **6. Meeting with Candidates**

The Election Committee will meet with all interested candidates at the convenience of the committee to discuss election procedures, allow for inspection of the union's membership list, review rules for the: distribution of campaign literature, observers at the counting, and other campaign rules. Candidate position on the ballot will be determined by alphabetical order of the last name. If a candidate does not have a meeting with the committee, the chair of the committee will have final authority to make all decisions for that candidate in accordance with election procedures.

### **7. Inspection of the Membership List**

Each candidate may inspect (not copy) the membership list once within 30 days prior to the election. No candidate is entitled to receive a copy of the list. The membership list will be available for inspection with the members of the election committee after they have received the most current copy from the Treasurer of the NYSLC/JBLC.

### **8. Distribution of Campaign Literature**

Each candidate has the right to distribute campaign literature to members at the candidate's expense. The distribution may not take place while the candidate is in pay status as a lifeguard, and may not interfere with the operations of the facility they are visiting.

### **9. Campaign Restrictions**

Federal law prohibits the use of any union or employer funds to promote the candidacy of any person in a union officer election. This prohibition applies to cash, facilities, equipment, vehicles, office supplies, etc. Union officers and employees may not campaign on time paid for by the union.

Federal law also provides that candidates must be treated equally regarding the opportunity to campaign and that all members may support the candidates of their choice without being subject to penalty, discipline, or reprisal of any kind. Federal election restrictions do not allow for:

- campaigning on time paid for by the union or employer
- use of union/employer owned or leased equipment such as telephones, fax machines, and copy machines
- use of union/employer supplies such as stamps, paper, and envelopes
- use of union employees to prepare campaign literature while on union time
- use of the union letterhead
- use of union/employer property or facilities
- printing articles which support or criticize an individual's candidacy in a union newspaper or other publication

- giving free services or special discounts to a candidate customer such as printing, photocopying, etc.

## **10. Observers**

Candidates are entitled to have observers present at the polls and the tally of ballots. Observers must be members of the NYSLC/JBLC. Candidates should submit the names of their observers in writing to the Election Chairperson prior to election day.

### **RULES FOR OBSERVERS**

1. Each observer should identify themselves to the election officials, sign the observer log, and indicate which candidate they represent.
2. While present in the tally area, each observer should wear a badge provided by election officials clearly marked "Observer" if requested to do so.
3. During the tally of ballots, observers may challenge the accuracy of the way votes are read from marked ballots and recorded on tally sheets and should state any objection to election officials as soon as possible so that any necessary corrective action can be taken.
4. Observers may not touch or handle ballots at any time or interfere with the tally process.

## **10. Election Day**

The election will be held in accordance with the timeline sent out with the notification of nomination and election from the Election Committee. No campaigning will be permitted in any work areas where voting is taking place.

## **11. Tally of Ballots**

Ballots will be counted by the Election Committee after the polls close. Write-in votes are permitted in the election. The candidate who receives the highest number of votes cast for each office will be declared elected. Any tie votes will be decided by a coin toss conducted by the Election Committee.

## **12. Election Results**

The election results will be emailed in the same manner as the notice of nomination and election, after the tally is completed.

## **13. Election Records**

The Secretary is responsible for maintaining all nomination and election records for at least one year after the election, as required by federal law.

## **14. Questions or Problems**

Candidates and members with questions about the nomination or election procedures should contact a member of the Election Committee. Any violation of these rules should be reported promptly to the Election Committee so that corrective action can be taken, if necessary.

## **15. Protests**

Any candidate may challenge a local union officer election by filing a protest in writing, sent by

registered receipt mail to the chairperson of the Election Committee within 10 days after election results are posted. All protests will be considered by the Election Committee and their decision will be final, notwithstanding other legal rights afforded the member.

The six most common reasons why union officer elections are challenged:

- use of union or employer funds, facilities, equipment, or supplies to support a candidate
- non-uniform application of candidate eligibility requirements
- denying eligible members the right to vote or permitting ineligible persons to vote
- lack of secret ballot
- failure to provide adequate safeguards to insure a fair election, including failure to safeguard ballots properly
- failure to follow provisions of the union's constitution and bylaws

### **Seven Steps for Resolving Protests**

Election officials should generally follow seven steps in resolving each election allegation that is properly raised. As an example, if a protest alleged that retired members were improperly allowed to vote, the election officials should:

- 1. Review the election protest thoroughly to decide what information is needed to resolve the allegation**
- 2. Talk to the protesting member**
- 3. Review the constitution/bylaws and the election rules**
- 4. Review election records**
- 5. Interview members and other persons, as necessary**
- 6. Decide if the allegation is true by reviewing all the information gathered by the election officials and discussing the findings as a team.**
- 7. Determine how many votes may have been affected if the allegation is true**

Two points should be stressed:

- 1) since it is unfair to force winning candidates to undergo a rerun election without a substantial reason, the impact of any irregularity on the election results must be carefully considered before a decision is made to rerun the election and
- 2) if an irregularity affects only one race or some races, only the affected race(s) should be rerun.

\*The above rules are not all inclusive. Additional election rules or clarifications may be issued by the Election Committee as needed during the nomination and election period\*

**Labor-Management Reporting and Disclosure Act of 1959, As Amended  
Title IV - Elections**

Terms of Office; Election Procedures  
(29 U.S.C. 481)

Sec. 401. (a) Every national or international labor organization, except a federation of national or international labor organizations, shall elect its officers not less often than once every five years either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot.

(b) Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.

(c) Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members 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. Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. 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.

(d) Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils, shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot.

(e) In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared

ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title.

(f) When officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of this title. The officials designated in the constitution and bylaws or the secretary, if no other is designated, shall preserve for one year the credentials of the delegates and all minutes and other records of the convention pertaining to the election of officers.

(g) No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

(h) If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with the Administrative Procedure Act that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this title.

(i) The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in subsection (h).

## **Enforcement**

(29 U.S.C. 482)

Sec. 402. (a) A member of a labor organization—

(1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or

(2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation, may file a complaint with the Secretary within one calendar month thereafter alleging the violation of any provision of section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the election and removal of officers). The challenged election shall be presumed valid pending a final decision thereon (as hereinafter provided) and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(b) The Secretary shall investigate such complaint and, if they find probable cause to believe that a violation of this title has occurred and has not been remedied, they shall, within sixty days after the filing of such complaint, bring a civil action against the labor organization as an entity in the district court of the United States in which such labor organization maintains its principal

office to set aside the invalid election, if any, and to direct the conduct of an election or hearing and vote upon the removal of officers under the supervision of the Secretary and in accordance with the provisions of this title and such rules and regulations as the Secretary may prescribe. The court shall have power to take such action as it deems proper to preserve the assets of the labor organization.

(c) If, upon a preponderance of the evidence after a trial upon the merits, the court finds--

(1) that an election has not been held within the time prescribed by section 401, or

(2) that the violation of section 401 may have affected the outcome of an election,

the court shall declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary and, so far as lawful and practicable, in conformity with the constitution and bylaws of the labor organization. The Secretary shall promptly certify to the court the names of the persons elected, and the court shall thereupon enter a decree declaring such persons to be the officers of the labor organization. If the proceeding is for the removal of officers pursuant to subsection (h) of section 401, the Secretary shall certify the results of the vote and the court shall enter a decree declaring whether such persons have been removed as officers of the labor organization.

(d) An order directing an election, dismissing a complaint, or designating elected officers of a labor organization shall be appealable in the same manner as the final judgment in a civil action, but an order directing an election shall not be stayed pending appeal.

### **Application of Other Laws**

(29 U.S.C. 483)

Sec. 403. No labor organization shall be required by law to conduct elections of officers with greater frequency or in a different form or manner than is required by its own constitution or bylaws, except as otherwise provided by this title. Existing rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by the provisions of this title. The remedy provided by this title for challenging an election already conducted shall be exclusive.

LMRDA Section 504

## **Labor-Management Reporting and Disclosure Act of 1959, As Amended Title V - Safeguards for Labor Organizations**

### **Prohibition Against Certain Persons Holding Office**

(29 U.S.C. 504)

Sec. 504. (a) No person who is or has been a member of the Communist Party\* or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such



crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a consultant or adviser to any labor organization,

(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any Labor organization,

(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decision making authority concerning, or decision making authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization, during or for the period of thirteen years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, United States Code, determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the court shall hold a hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(c) For the purpose of this section—

(1) A person shall be deemed to have been “convicted” and under the disability of “conviction” from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

(2) A period of parole shall not be considered as part of a period of imprisonment.

(d) Whenever any person—

(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such

salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.

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\* The U.S. Supreme Court on June 7, 1965, held unconstitutional as a bill of attainder the section 504 provision which imposes criminal sanctions on Communist Party members for holding union office (U.S. v. Brown, 381 U.S. 437, 85 S. Ct. 1707).

<https://www.dol.gov/agencies/olms/compliance-assistance/publications/guide-for-conducting-local-union-officer-elections#fig1>