

Conducting Mail Ballot Elections – LMRDA Requirements


The following requirements apply to mail ballot elections for Education Minnesota RC delegate elections, and any local officer elections required to follow the Labor Management Reporting and Disclosure Act (LMRDA). If you have questions about these requirements, please email elections.committee@edmn.org for assistance.

1. Preparations

- Develop a time schedule for each step of the mail ballot election (ballot printing, mailing, return deadline and counting) which allows adequate time for completing each phase. As a general rule, allow 3 to 4 weeks for members to mark and return their ballots.
- Establish a date and time by which voted ballots must be received in order to be counted and clearly announce this deadline in the voting instructions. Do not use a postmark date for the ballot return deadline date because a significant percentage of mail is not postmarked.
- Update the union's membership address list to ensure that the address for each member is correct. Review the union's most recent mailing to all members to determine if any pieces of mail were returned undelivered, make a list of members for whom new addresses are needed and attempt to obtain updated addresses for those members.
- Arrange with postal officials for a special restricted-access post office box to be used solely for the receipt and storage of voted ballots. Do not use the union's regular post office box or union office for the receipt of voted ballots. Instruct postal officials that ballots must be released only at a specified time on the ballot return deadline date and only to authorized union election officials.
- Arrange with postal officials for a second post office box for ballot packages returned undelivered. This post office box will serve as the return address on the ballot package mailed to members.
- Notify candidates of all election and campaign rules including the right to inspect, once within 30 days before the election, a list of all members (subject to a collective bargaining agreement which requires union membership as a condition of employment) and the right to have the union distribute campaign literature to members at each candidate's expense. Also advise candidates and current officers about the prohibition against the use of union and employer funds (including facilities, equipment, supplies and campaigning on time paid for by the union or employer) to support any person's candidacy in a union officer election.
- Advise candidates of the date, time and place for the preparation and mailing of ballot packages; information about any ballot package re-mailing; the date, time and place of the ballot pickup at the post office and tally; and their right to have observers at each of these activities. Centers for Disease Control and Prevention and Minnesota Department of Health safety guidelines regarding COVID-19 should be followed if observers will be present.
- Prepare an accurate voter eligibility list with up-to-date member addresses.
- Obtain the necessary materials and prepare a mail ballot package for each member which provides for ballot secrecy, using a double envelope system.

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2. The Mail Ballot Package

- Mail ballot packages must include:
 - (1) a ballot;
 - (2) voting instructions (which may be printed on the ballot);
 - (3) a secret ballot envelope with no identifying information (such as a return address); and
 - (4) a return envelope that is pre-addressed to the post office box for returned voted ballots and contain space for the voter to print his or her name and address in the upper left corner.
- These items must be mailed in a larger envelope with the return address of the post office box designated solely for the receipt of ballot packages returned undelivered so that they can be re-mailed by election officials after obtaining correct addresses.
- Retain custody of the ballot packages until mailing and safeguard blank ballots throughout the balloting period. Election officials must be able to account for all ballots printed. The number of ballots printed minus the number of ballots issued to members (in the initial mailing as well as any additional mailing) must equal the number of unused ballots on hand at the end of the election.
- Mail a ballot package to every member. If a separate election notice is not mailed, ballot packages must be sent to all members, not only to members in good standing. Ballot packages should be mailed to members at least 15 days prior to the date when they must be mailed back in order to be counted. Members must be given a reasonable time to receive, mark and return ballots.
- Send ballot packages by first class mail to ensure that all members receive ballots in a timely manner. Obtain a statement from the post office indicating the number of ballot packages mailed.

3. During the Balloting Period

- Ask postal officials not to release information to anyone about the number of ballots returned or the names of the voters prior to the time of the ballot pickup.
- Pick up any ballot packages mailed to members that have been returned undelivered to the post office box obtained for this purpose. Attempt to obtain accurate addresses for these members. Ballot packages with updated addresses should be re-mailed as soon as possible. Observers have the right to be present for the pickup and remailing of ballot packages.
- Advise members how to request another ballot if the ballot package is not received or if the ballot is spoiled while voting. Include this information in the election notice (as illustrated in the above sample notice), post a copy of the election notice at the union hall and at worksites, and print an announcement in any union publication. Send a replacement ballot package to any eligible member who makes a request.
- Keep a list of the names and addresses of any members who request replacement ballots. Replacement ballot return envelopes should be marked with a special designation (such as "D" for duplicate) to alert election officials at the tally that these members have been sent more than one ballot. A record must be kept of all replacement ballots sent in response to requests and all ballot packages which were remailed after being returned undelivered, including dates received and mailed.
- Plan for the pick up of ballots from the post office and the tally of ballots. Determine the ballot counting method and voiding rules to be used and prepare tally sheets.

4. Counting Ballots

Locals should have a COVID-19 plan in place for the counting of ballots. The plan should include masking, social distancing and other CDC and MDE guidelines for gatherings. Possible safety measures include using a room that is large enough to have an appropriate amount of space between the people opening and counting the ballots and any observers present, taping the floor and using signage to encourage social distancing, and having extra masks, gloves, hand sanitizer, disinfecting wipes and other cleaning supplies.

- Pick up the envelopes containing the voted ballots from the post office box only at the scheduled date and time, allowing candidates to have an observer present. Under no circumstances should ballots be picked up before the ballot return deadline or by anyone other than election officials.
- Verify voter eligibility at the tally site using the following recommended procedures:
 - *Count and record the number of return ballot envelopes received at the post office box, removing any envelopes addressed to a different party.*
 - *Put the return ballot envelopes in the order (alphabetical, numerical, etc.) which corresponds to the voter eligibility list. Void (but do not open) any return ballot envelope which does not contain information that identifies the member as an eligible voter.*
 - *Call out the name of each voter and mark the name off the voter eligibility list to insure that no member casts more than one ballot. If a voter's name does not appear on the list, challenge the ballot, add the voter's name to the end of the voter eligibility list, and mark both the list and the envelope with a "C" for challenged ballot.*
 - *If a voter returns a replacement ballot in an envelope marked by election officials with a "D" for duplicate, indicate that fact on the voter eligibility list and on the list of replacement ballots maintained by election officials. If a voter returns two ballots, election officials must decide in advance which ballot to count. Usually the replacement ballot should be counted; the other returned ballot envelope should be voided.*
 - *If the return ballot envelope does not contain the voter's name or other required information but does contain information identifying the person as eligible to vote (such as a voter identification number), the ballot should be counted. For example, if a voter uses a pre-printed return address sticker rather than printing or signing his or her name as directed by the voting instructions, the ballot should be counted. (Voters should not be required to sign the ballot return envelope unless election officials are going to physically compare each signature to some other record, a task which is extremely difficult and time consuming.)*
- Resolve any challenged ballots, if possible, before any ballot envelopes are opened and the counting begins. Election officials should keep a record of decisions made and explain the reason for each voter eligibility decision to observers.
- Remove (but do not open) the secret ballot envelopes from the return ballot envelopes after voter eligibility is established and thoroughly mix all of the secret ballot envelopes together to preserve ballot secrecy. Observers should not be permitted to handle any envelopes or ballots. Prior to the tally, election officials should decide what to do if a voter has not used the secret ballot envelope. Election officials have two choices: 1) Election officials may decide to void a ballot if a voter has not used the secret ballot envelope. (If this policy is adopted, include a warning to members in the voting instructions as illustrated in the above sample notice, that a ballot will be voided if it is not returned in the secret ballot envelope.) OR 2) Election officials may decide to count these ballots, but they must take necessary steps to preserve secrecy. (In such cases, carefully remove the ballot from the return ballot envelope without allowing anyone to see how it is marked. Immediately place the ballot face down and mix it together with the other ballots after they are removed from the secret ballot envelopes to preserve secrecy.)

- Open the secret ballot envelopes, remove and unfold the ballots and place them face down. (If a secret ballot envelope does not contain a ballot, make a notation to that effect on the envelope and set it aside. Remember to account for any such envelopes when determining the total number of ballots returned.)
- Begin the actual counting of ballots after completing the voter eligibility check and attempting to resolve any challenged ballots. Count the votes on each ballot and enter the results on tally sheets.
- Void the entire ballot if it contains information identifying the voter. Void only the particular office involved if voter intent is not clear or if too many candidates have been selected for an office.
- Announce the tally results for each office. Report the number of valid ballots counted, the number of totally void ballots and the number of unresolved challenged ballots.
- Pack and seal in boxes all return ballot envelopes, secret ballot envelopes, voter eligibility lists, tally sheets and the used and unused ballots after the counting is completed and keep them for at least one year as required by federal law.
- Publish and post the election results promptly. Return to the post office at a later date and pick up any ballots received after the deadline. Void (but do not open) any ballots received after the ballot return deadline, marking the ballot envelopes "Void - Received after Deadline." Retain these ballot envelopes with the other election records.