

## **Revised Manual Sections**

### **13.0 TELEPHONE AND INTERNET ELECTIONS**

#### **13.1 The Notice of Election**

The NMB will provide copies of the Notice of Telephone and Internet Voting Instructions (Notice) to the participants at least five (5) calendar days before the Telephone and Internet Voting Instructions (Instructions) are mailed to the eligible voters. The Carrier must post the Notice on Carrier bulletin boards and at all locations where other notices to employees usually are posted. At least one Notice per station must be posted.

#### **13.2 Telephone and Internet Voting**

##### **13.201 Telephone and Internet Voting Instructions**

The Instructions consist of the Telephone and Internet Voting Instructions, a Voter Identification Number (VIN), and a Personal Identification Number (PIN).

It is NMB practice to list the incumbent, the applicant, the intervenor, the "write-in" option, and the "no representative" option in descending order on the Instructions. If there is no incumbent and more than one applicant, the Investigator will determine the placement of the names.

The Investigator will establish a time period for voting. The number of eligible voters, the number of stations involved, and the geographical distribution of the voters will be considered when determining the appropriate voting period. Participants may request additional time for the voting period. This request must be filed electronically at [OLA-efile@nmb.gov](mailto:OLA-efile@nmb.gov) prior to the establishment of the voting period. The request must include a detailed explanation of the circumstances requiring an extended voting period. In no event will the Instructions be mailed less than 21 days before the tally. Only NMB agents administer Instructions, VINs, and PINs.

##### **13.202 Voter Identification Numbers**

Each voter will be assigned a VIN to be used in conjunction with the voter's PIN. The VIN is a randomly generated six digit confidential number known only to the voter and NMB agents.

13.203 Personal Identification Numbers

Each voter will also be assigned a PIN. The PIN is a randomly generated four digit confidential number known only to the voter and NMB agents.

13.204 Voting with the PIN and VIN

To vote, the voter can either call a toll-free telephone number or access a designated website as explained in the Instructions. Voters can only vote once with their assigned VINS and PINS through either the telephone or the Internet. As the systems are linked, voters are prevented from voting more than once.

Telephone Voting. The voter follows the voice prompts. When the voter's identity is confirmed, the voter will be prompted with voting instructions for the election. The Telephone Electronic Voting (TEV) voice prompt will list the incumbent, the applicant, the intervenor, the "write-in" option, and the "no representative" option. If there is no incumbent and more than one applicant, the Investigator will determine the placement of the names on the voice prompt.

Internet Voting. After accessing the website, the voter enters his/her assigned VIN and PIN. When the voter's identity is confirmed, a ballot screen will appear for the election in which he/she is eligible to vote. The incumbent, the applicant, the intervenor, the "write-in" option, and the "no representative" option will be listed in descending order. If there is no incumbent and more than one applicant, the Investigator will determine the placement of the names on the ballot screen.

The PIN and VIN ensure the confidentiality and the integrity of the election by eliminating unauthorized votes.

13.205 Challenged Individuals

Individuals whose eligibility or ineligibility has been challenged, and for whom no final decision has been made, will be sent Instructions, a VIN and PIN. Their votes, if cast, will be considered challenged votes. Prior to the tally, the eligibility determinations will be made by the NMB election officials and appropriate adjustments to the List of Eligible Voters will be made.

13.206 Requests for Duplicate Telephone and Internet Voting Instructions

Voters may request duplicate Instructions, including a VIN and a PIN, by contacting the NMB in writing. The request must be signed by the voter requesting the Instructions and mailed in an individual envelope; group requests are not accepted. Requests by telephone, facsimile or electronic mail are not accepted. Requests received less than five (5) days before the tally will not be honored. Requests dated or received prior to the mailing of the Instructions will not be honored.

The name of any employee requesting duplicate Instructions will be confidential. The employee will be mailed duplicate Instructions, including a VIN and a PIN, and the Official Eligibility List will be marked to reflect that duplicate Instructions were mailed.

13.207 Undeliverable Telephone and Internet Voting Instructions

Instructions returned to the NMB for incorrect addresses or any other reason, will be checked for accuracy. If a "corrected" address is obtained at least five (5) calendar days prior to the tally, the Instructions will be mailed to the corrected address. Otherwise, the Instructions are undeliverable.

13.208 TTY Communications System Users -- for Telephone Voting

Voters may use the NMB's TTY communications system for Telephone Voting as explained in the Instructions. When the voter uses the TTY communications system, the voter must identify himself or herself with the correct PIN and VIN. NMB election officials shall assist the voter as necessary.

13.209 Adjustments to the Official Eligibility List

The Investigator will verify the number of eligible voters prior to the tally by making the following adjustments:

- (1) clearing all challenges;
- (2) removing names for those individuals whose Instructions were undeliverable; and,
- (3) adjusting for changes in employee status.

### 13.3 The Tally of Votes

#### 13.301 Location and Time of the Tally of Votes

The voting will close at 2 p.m., Eastern time, unless the Investigator establishes an alternate time. The tally of votes will occur at the NMB's Office in Washington, DC.

#### 13.302 Request to Postpone the Tally

Absent extraordinary circumstances, requests to postpone the tally must be filed electronically at OLA-efile@nmb.gov no later than two (2) business days before the scheduled count, directed to the General Counsel, and must be supported by substantive evidence. The Board will consider granting such requests only in extraordinary circumstances. Unless the Investigator is officially advised by the Board to defer or cancel the tally, the Investigator shall tally the votes and overrule requests of participants either to defer or to cancel the tally, even when the applicant desires to withdraw the application.

#### 13.303 Admission and Control of the Tally of Votes

The NMB may allow a reasonable number of representatives from the Organization(s) and the Carrier to observe the tally.

The Investigator will ensure that the observers do not interfere with the tally. Any material or information which might disclose whether particular employees cast votes or refrained from voting must be secured. Some examples of such materials would include marked eligibility lists, requests for duplicate Instructions, and voting records reflecting dates, times, and phone numbers.

#### 13.304 Vote Determinations

##### 13.304-1 Valid Votes

Voters will have the opportunity to vote for representation by an organization or individual or for "no representative." Where the voter's intent to vote for representation is clear, the vote is valid and will be counted as a vote for representation. If an organization or individual receives a majority of votes cast, it will be certified as the representative. If the majority of votes cast are for "no representative," there will be no representative certified.

Valid votes for representation include "write-in" votes which clearly indicate the voter's desire for representation. Where a voter has successfully followed the TEV Instructions for a "write-in" vote, but has only recorded silence, the silent "write-in" vote will be counted as a valid vote for representation. Similarly with Internet voting, where a voter has selected to submit a "write-in" vote but has not entered any text and confirms this selection, that blank "write-in" vote will be counted as a valid vote for representation.

13.304-2

Void Votes

The following votes are void and will not be counted:

- (1) votes cast for a carrier or carrier official;
- (2) votes where the voter's intent is unclear; and
- (3) votes where the voter has "written in" "self," "self representation" or the equivalent.

13.305

Authority to Tally the Votes

Unless the Investigator is officially advised by the Board to defer or cancel the tally, the Investigator shall tally the votes and overrule requests of participants either to defer or to cancel the tally, even where the applicant desires to withdraw the application.

13.306

Tally of Votes

Following any adjustments to the list of eligible voters, the NMB agents will enter the website, tally the votes, print the tally and provide copies to the Organization(s) and the Carrier.

14.0 MAIL ELECTIONS

14.1 The Notice of Election

The NMB will provide copies of the Notice of Election/Sample Ballot ("Notice") to the participants at least five (5) calendar days before the ballots are mailed. The carrier must post the Notice on carrier bulletin boards and all locations where other notices to employees usually are posted. At least one Notice per station must be posted.

14.2 Mail Ballot Elections

14.201 Official NMB Mail Ballots

All ballots must have a non-reproducible NMB seal. Different colored ballots are used for each election to preserve the integrity of the election.

It is NMB practice to list the incumbent, the applicant, the intervenor, the "write-in" option, and the "no representative" option in descending order on the ballot. If there is no incumbent and more than one applicant, the Investigator will determine the placement of the names on the ballot.

14.202 Ballot Package

Only NMB agents handle ballot packages. A ballot package consists of the Notice of Election/Ballot and a prepaid postage ballot return envelope. The ballot package is mailed to eligible voters not less than 21 calendar days before the ballot count.

14.203 Key Numbering

Each ballot return envelope is marked with the case number and a unique key number. The key numbering system controls the integrity of the election by eliminating unauthorized ballots. The key number is also noted on the Official Eligibility List next to the name of each voter.

14.204 Challenged Individuals

Individuals whose eligibility or ineligibility has been challenged, and no final decision has been made, will be sent a ballot package.

14.205 Requests for Duplicate Ballots

Individuals listed on the Official Eligibility List may request a duplicate ballot by contacting the NMB in writing. The request must be signed by the individual requesting the ballot and mailed in an individual envelope; group requests are not accepted. Requests by telephone, facsimile or electronic mail are not accepted. Requests received less than seven (7) calendar days before the count will not be honored. Requests dated or received prior to the mailing of the ballots will not be honored.

The name of any individual requesting a duplicate ballot will be confidential. The individual will be sent a ballot package with the original key number written on the ballot return envelope. The ballot return envelope will be marked "duplicate" and the Official Eligibility List will be marked to indicate that a duplicate ballot was mailed.

14.206 Undeliverable Ballots

Ballot packages returned to the NMB for incorrect addresses will be checked for accuracy. If a "corrected" address is obtained at least seven (7) calendar days prior to the count, the ballot package will be sent to the corrected address. Otherwise, the ballot package is undeliverable.

14.207 Adjustments to the Official Eligibility List

The Investigator will verify the number of eligible voters prior to the count by making the following adjustments:

- (1) clearing all challenges;
- (2) removing names for those individuals whose ballot package was undeliverable; and,
- (3) adjusting for changes in employee status.

14.3 The Ballot Count

14.301 Location and Time of the Ballot Count

The ballot count will be 2 p.m., Eastern Time, at the NMB's offices in Washington, DC, unless the Investigator establishes an alternate time.

14.302 Requests to Postpone the Tally

Absent extraordinary circumstances, requests to postpone the ballot count must be in writing and received no later than two (2) business days before the scheduled count, directed to the General Counsel, and must be supported by substantive evidence. The Board will consider granting such requests only in extraordinary circumstances.

Unless the Investigator is officially advised by the Board to defer or cancel the tally, the Investigator shall tally the votes and overrule requests of participants either to defer or cancel the tally, even when the applicant desires to withdraw the

application.

14.303 Admission and Control of the Ballot Count

The NMB may allow a reasonable number of representatives from the Organization(s) and the Carrier to observe the ballot count.

The Investigator will ensure that the observers do not interfere with the count. All materials which might disclose whether particular employees cast ballots or refrained from voting must be secured from view prior to permitting any non-NMB employees to observe the final tabulation of the ballots. Such materials would include ballot envelopes with attest, marked eligibility lists, requests for duplicate ballots, and similar documents. All ballots should be mixed thoroughly before unfolding and commencing the actual count.

14.304 Commencing Tally of Ballots

The Investigator will collect the ballots from the safe on the date of the count.

14.305 Ballot Determinations

14.305-1 Invalid Ballot Return Envelopes

Ballot envelopes returned without a signed attest are invalid. Ballot envelopes from individuals not on the Official Eligibility List are invalid. Invalid envelopes are not opened.

When a voter returns both the original and the duplicate ballot envelope, the original will be counted and the duplicate will be marked invalid.

14.305-2 Valid Ballots

Voters will have the opportunity to vote for representation by an organization or individual or for "no representative." Where the voter's intent to vote for representation is clear, the ballot is valid and will be counted as a vote for representation. If an organization or individual receives a majority of votes cast, it will be certified as the representative. If the majority of votes cast are for "no representative," there will be no representative certified.



Valid ballots cast for representation include "write-in" ballots which clearly indicate the voter's desire for representation. Where a voter has marked an "X" in the box indicating a desire for representation by "any other organization or individual" without filling in the "write-in" space, the ballot will be counted as a valid vote for representation.

#### 14.305-3

##### Void Ballots

The following ballots are void and will not be counted:

- 1) ballots cast for a carrier or carrier official;
- 2) ballots marked in more than one square, where the voter's intent is unclear;
- 3) blank ballots;
- 4) ballots where the voter has "written in" "self," "self representation" or the equivalent; and,
- 5) ballots which identify the voter, unless the voter has placed his/her name in the "write-in" space on the ballot and is not identified elsewhere on the ballot.

#### 15.0. TABULATION AND REPORT OF ELECTION RESULTS

Following any adjustment to the List of Eligible Voters, the Investigator shall complete the count, tabulate the results, and record the results on the Report of Election Results. The Investigator shall sign the Report of Election Results and provide copies to the participants.

##### 15.1 Certifications and Dismissals

The NMB will generally issue a Certification or Dismissal based upon the Report of Election Results the next business day following the count. Existing Certifications remain in effect until the NMB issues a new Certification or Dismissal.

#### 16.0 RUN-OFF ELECTIONS

When a majority of the valid ballots have been cast for representation, but no single organization or individual has received a majority of the votes cast, a run-off election may be held. Also, in the event of a tie vote between votes for representation and votes for no representation, a run-off election will be

held. All requests for run-off elections should be directed to the attention of the General Counsel within ten (10) days after the date of the report of results of the first election. Run-off elections will be conducted only with written authorization of the Board. The procedures for run-off elections are set forth in the NMB Rules § 1206.1 (29 CFR § 1206.1).

In a run-off election, the ballot will not include a space for "write-in" votes. The selection receiving the highest number of votes in the run-off is declared the winner. (See 29 C.F.R. § 1206.1).