

NOTICE OF NOMINATIONS AND ELECTIONS FOR SURFACE MAINTENANCE DEPARTMENT EXECUTIVE BOARD MEMBER



In accordance with the Constitution of the Transport Workers Union of America and Local 100's By-Laws, the election of a Surface Maintenance Executive Board Member will take place by secret mail ballot mailed out (a) on **September 17, 2010** to all members in good standing in the Surface Maintenance Department as of **September 1, 2010**. Ballots will be counted on **Wednesday, October 6, 2010**.

I. NOMINATIONS

PERIOD OF PETITION NOMINATIONS

Monday August 23, 2010 to September 2, 2010.

ELIGIBILITY

To be eligible for nomination for any of the above positions, a member must be in continuous good standing in Local 100 since August 1, 2009.

NOMINATIONS

All nominations shall be made by filing a "Nominating Petition Form." Petitions will be available to any member in good standing at the Office of the Elections Committee (Room 624 at the Union Hall) between Monday, August 23, 2010 and Thursday September 2, 2010, between the hours of 9:00 AM and 6:00 PM; the Elections Committee Office will be closed on Saturday and Sunday, August 28 and 29, 2010.

Petitions will be issued only to candidates who complete and submit an "Authorization to Pick Up a Petition" form. The forms will be available at the Elections Committee Office or the Local 100 web site and may be hand delivered, mailed, e-mailed or faxed in to the Elections Committee. Any candidate from a slate may pick up a petition or may authorize a member in good standing to pick up a Petition for the entire slate. All Petitions shall be numbered by the Elections Committee and each member obtaining Petitions shall be required to sign for them and shall be held responsible for their proper use. The member

who obtains the signatures on a Petition must complete and sign the statement at the bottom of each Petition, asserting that he or she collected the signatures from persons representing themselves to be members in good standing of Local 100. If such a statement is not signed, the Petition will be invalid. Each member signing must be a member in good standing, and only members in good standing may solicit signatures.

The Petition must be signed in ink; the member must print his/her name and must either include his/her pass number or if the employee does not have a pass number he/she must include the last four (4) numbers of his/her social security number. Any signature of a member not in good standing and/or pass number and/or social security number deemed illegible will not be counted.

PETITION REQUIREMENTS

A candidate must submit 65 valid signatures, from Members of that Division, in order to be nominated

INDIVIDUAL NOMINATIONS

Individual (non-slate) candidates must notify the Elections Committee of their intent to run for office by completing a "Nomination Form" provided by the Elections Committee. The completed form submitted to the Elections Committee must: (1) be signed by the candidate, (2) show the office for which he/she is a candidate, and (3) include his/her name, printed exactly as it is to appear on the petition and ballot, and his/her contact information including the mailing ad-

dress, social security number, telephone number, and e-mail address.

PREPARATION OF PETITIONS/ELIGIBILITY

The Elections Committee will prepare the "Nominating Petition Forms" and will insert, before issuance, the name or names of the candidates for whom the petitions are requested.

The Elections Committee will determine the eligibility of candidates as promptly as possible and will notify each candidate found to be ineligible by telephone, e-mail, and/or overnight mail. The inclusion by the Elections Committee of a candidate's name on a petition shall not be construed as a final ruling about whether that candidate has met the eligibility requirements for election; such an issue can be the subject of an objection through a period ending 6:00 PM on Tuesday September 7, 2010.

APPEALS OF ELIGIBILITY RULINGS

A candidate ruled ineligible must appeal that ruling, in writing or by e-mail, delivered to the Elections Committee within 48 hours of receipt of the notice. If the Elections Committee determines that a hearing is necessary, the Elections Committee will conduct a hearing on any appeal as expeditiously as possible, at a time designated by the Elections Committee. The Committee will give the candidate 24 hours' notice of the hearing. The burden shall be on the candidate to demonstrate to the Elections Committee that its initial determination was wrong. The Elections Committee shall rule on eligibility appeals at the close of the hearing. Elections Committee determinations may be appealed to the Neutral Monitor by any candidate or good-standing member.

FILING OF PETITIONS

Signed "Nominating Petition Forms" must be hand-delivered, by a member in good standing, to a member of the Elections Committee on weekdays from Monday, August 23, 2010 to Thursday, September 2, 2010 between the hours of 9:00 AM and 6:00 PM; the Elections Committee will be closed on Saturday and Sunday, August 28 and 29, 2010. A receipt will be given to the delivering member indicating the number of pages and the number of signatures on all accepted Nomination Petitions. *NO*

Petitions will be accepted after 6:00 PM September 2, 2010.

OBJECTIONS TO NOMINATIONS

Any member in good standing will be able to check filed Petitions to verify the number of valid signatures, under the supervision of the Elections Committee, on Friday, September 3, 2010, and Tuesday, September 7, 2010 between the hours of 9:30 AM and 6:00 PM. Written objections alleging signature duplication, or other irregularities, must be signed and submitted by a member in good standing to the Elections Committee no later than 6:00 PM, Tuesday, September 7, 2010. The burden shall be on the challenging party to present evidence that would invalidate signatures or a petition as a whole. The Elections Committee will reach a decision about all objections on or before Monday, September 13, 2010. The Elections Committee will notify the objector of its decision in writing. The Elections Committee has the authority to investigate apparent irregularities on its own and make a ruling. The Elections Committee may consult with the Neutral Monitor in making its determinations.

ELIGIBILITY REPORT

The Elections Committee will issue the Final Report on Eligibility on or before September 13, 2010. Any party who wishes to contest the determination of the Elections Committee has forty-eight (48) hours from the date of this Report to appeal to Neutral Monitor, and may appeal the Neutral Monitor's ruling to the International Committee on Appeals. All decisions will be posted on the elections web site:

www.twulocal100.org/elections2010

FRAUD

All candidates on a petition are responsible for all petitions and forms filed on their behalf. The submission of petitions or forms with forged or fraudulent signatures may result in the disqualification of the candidate(s) whose names are on the petition.

II. ELECTION

THE BALLOT

Candidates will be listed in the order reflecting the number of valid petition signatures submitted.

THE ELECTION

Ballots will be mailed on Friday, September 17, 2010, by the American Arbitration Association, utilizing the most recent membership list available. To be eligible to vote in the election, a member must be in good standing and must have paid all arrears in dues and other financial obligations to the Union, prior to voting, in accordance with Article XIII of the Constitution of the Transport Workers Union of America, AFL-CIO, on or before September 1, 2010.

Enclosed with the ballot mailed to each member will be two (2) envelopes. The words "SECRET BALLOT – EXECUTIVE BOARD ELECTION" will be printed on one envelope, The two other envelope will be an addressed return envelope, with postage prepaid.

- Each ballot must be voted in accordance with the instructions printed on it.
- Having voted, the member must place their marked ballot in the appropriate secret ballot envelope and seal it. Any mark on the secret ballot envelope which could identify the voter will void the ballot.
- The sealed secret ballot envelopes should be placed in the appropriate return addressed envelope and sealed.
- The voted ballots must be mailed so as to arrive at the AAA office before 8:30 AM on Wednesday, October 6, 2010. *No ballots may be returned to the AAA in person.*

THE AMERICAN ARBITRATION ASSOCIATION

The AAA will administer the balloting. The AAA will be in possession of the membership list as it stands on September 1, 2010, and any member who does not receive a ballot, should contact AAA at 1-800-529-5218. Any question by a member regarding his or her eligibility to vote should be directed to the Elections Committee. If the question is not resolved to the member's satisfaction, then the member requesting a ballot may make a written appeal to the Neutral Monitor who will then make a determination.

THE COUNT

The count of the ballots returned will commence

at 9:00 AM on October 6, 2010, at the AAA office or at another location chosen by the AAA and the Elections Committee, and will continue until completed, with such breaks for meals and rest as the AAA may decide.

No ballot, but which was received after 8:30 AM on October 6, 2010 shall be counted.

OBSERVERS

Each candidate may designate in writing, signed by him or her, any member in good standing to act as their observer at each step in the election process, including: the assembling of ballots at the printer; the picking up of ballots from printers and their transportation to the Post Office for mailing; the eligibility check (which AAA on notice may perform prior to the two counting days); and the count. An individual candidate may not be represented by more than one observer at any one time, except at the count. A candidate may be one of the allowed observers.

THE NEUTRAL MONITOR

A Neutral Monitor appointed by Local 100 will be responsible for resolving disputes that arise in the course of the election. The Neutral Monitor's jurisdiction includes all disputes over conduct of the election, and disputes about or protests to the conduct of candidate(s), slate(s), the Local Union or other parties. The Elections Committee will continue to resolve disputes over eligibility, sufficiency of petitions, or failure to issue a ballot. Any protests, objections and appeals sent to the Neutral Monitor (or the Elections Committee) must be in writing and must be made within the time periods set forth in these Rules. It will be the Neutral Monitor's responsibility to resolve these disputes in accord with the Local 100 By-Laws, the TWU Constitution, applicable law, the Election Rules adopted by the Local Executive Board, and Supplemental Rules as promulgated by Neutral Monitor. As to all disputes brought to the Neutral Monitor's attention, the Neutral Monitor will have the power to investigate and determine the facts prior to applying the law to them.

CERTIFICATION

As soon as practicable, after the count has been completed and any protest(s) is decided and remedy put into effect, the Monitor shall certify, in writing,

the results of the election to the Elections Committee. The Elections Committee shall then prepare its appropriate report and certify the election to the Local Executive Board. Should a rerun be necessary, the Neutral Monitor and the Elections Committee shall certify those elections not subject to a rerun.

V. SUPPLEMENTAL RULES

1. **Membership List** - A computer disk containing the final list of the last known names and addresses of all members in good standing of the Surface maintenance Division shall be delivered to the AAA no later than the close of business on September 1, 2010. This disk shall be considered the master membership list. All members who have moved or changed their address and have failed to notify the Local 100 office of such change should notify the Local 100 office of the change no later than August 30, 2010. It is the responsibility of the member to keep the Union updated on his/her current address. Any additions made to the master membership list because of errors previously made and any deletions due to error, promotion or retirement shall be made only by the AAA, with concurrence of the Elections Committee, and with notice to the Neutral Monitor and all candidates. The list maintained by the AAA shall be the list used for all candidate mailings.
2. **Inspection of Membership List** - Each candidate has the right, on one occasion between Friday September 3, 2010 and Friday September 10, 2010 to inspect, but not copy, a list containing the last known names and addresses of all members of the Surface Maintenance Division. The list may be reviewed at the Local 100 office. Arrangements for review of the list will be made by the Chair of the Elections Committee. The membership list will be used for no other purpose except to generate labels for mailings. The Local Union shall not, in any way, discriminate in favor of or against any candidates with respect to the membership list.
3. **Freedom to Exercise Political Rights** - All Local Union members and all Local Union officers and employees, if members, retain the right to participate in campaign activities, including the right to

openly support or oppose any candidate, to aid or campaign for any candidate, and to make personal campaign contributions.

4. **Prohibition on Interference with Voting** - No person or entity shall limit or interfere with the right of any Local 100 member to vote.
5. **Campaign Contributions**
 - A. 1. No candidate for election shall accept or use any contributions or other things of value received from any employer, representative of an employer, foundation, trust, union or similar entity. Nothing herein shall be interpreted to prohibit receipt of contributions from fellow employees and members of the International Union, unless that employee or member is an employer.
 - A. 2. No employer shall be permitted to contribute anything to any campaign. The prohibition on employer contributions extends to every employer regardless of the nature of the business, or whether any union represents its employees, and includes but is not limited to political action organizations (other than a candidate's or slate's campaign organization), nonprofit organizations such as churches or civic groups, law firms, and professional organizations. These prohibitions include a ban on the contribution and use of stationery, equipment, facilities and personnel.
 - A. 3. The prohibition on campaign contributions extends to all labor organizations, whether or not they are employers, except as permitted below.
 - B. No Local Union services, facilities, equipment or goods—including, but not limited to, time, staff, copying machines, fax machines, telephones, printing and postage—shall be used to promote the candidacy of any individual or slate unless the Local notifies all candidates of the items available for use and all candidates are provided equal access at equal cost to such goods and services. The use of the Local Union's official stationery is prohibited irrespective of compensation or access.
 - C. No candidate or other member may campaign for her/himself or for any other candidate dur-

ing time that is paid for by the Local Union or by any employer. However, campaigning incidental to work or to regular Local Union business or during paid vacation, paid lunch hours or breaks, or similar paid time off, is permitted. Vacation request forms must be approved in advance and request/approval forms and vacation balances must be made available to the Neutral Monitor upon request.

- D. Nothing shall prohibit any candidate from accepting contributions made by any non-member who is not an employer, or by any member, whether or not such member is an employer, or by any caucus or group of Local Union members or any campaign organization of any candidate provided that such caucus, group or campaign organization is itself financed exclusively from contributions permitted under these rules.
- E. Nothing shall prohibit the donation of services by an individual to a candidate rendered on the individual's personal, free, uncompensated time.
- F. It is strongly recommended that each candidate notify all prospective contributors of the limitations on campaign contributions, on all campaign literature soliciting contributions, and at all fund-raising events.

6. Protests

- A. All protests alleging a violation of the Local 100 By-Laws, the TWU Constitution, applicable law, the Election Rules adopted by the Local Executive Board, and Additional Rules promulgated by Neutral Monitor related to the conduct of the nominations and election, except count-day protests, must be filed within forty-eight (48) hours of the time the complainant(s) knows or should have known of the alleged violation.
- B. Protests regarding any alleged improper mail ballot count-day conduct must be filed with the Neutral Monitor immediately, but no later than the completion of the counting of the ballots.
- C. All pre-election protests except those regarding disputes over an alleged improper failure

to issue a ballot shall be filed by sending the Neutral Monitor a clear and concise written statement of the alleged improper conduct by overnight mail or by email or facsimile transmission and shall include the name(s), address(es), e-mail address(es) and telephone number(s) of the complainant(s) and the name(s) of the person(s) against whom the protest is filed. A copy must also be sent by email or facsimile to the Elections Committee Chair and to counsel for the Elections Committee. The Neutral Monitor shall serve the protest on the designated representative of the affected slate or independent candidate(s) unless it is clear that the protest does not impact on a slate or candidate(s).

- D. With respect to any protest, it shall be the burden of the complainant to present evidence that a violation has occurred.
- E. No protest of any candidate or member shall be considered if such candidate or member or anyone acting under his/her direction or control or on this/her behalf, caused or significantly contributed to the situation giving rise to such protest.
- F. As soon as practicable after receipt of the protest, the Neutral Monitor or his/her representative shall evaluate the protest and shall determine its merits, applying the Local 100 Bylaws, the TWU constitution, applicable law, the Local Elections Committee rules, and these rules, and, if found meritorious, determine the appropriate remedy. The Neutral Monitor or his/her representative shall render a written decision on each protest and shall notify the complainant(s), the Local Union Elections Committee, Counsel to the Elections Committee, and any other candidate(s) affected by her decision.
- G. All candidates, members, the Local Union and the TWU shall cooperate with the Neutral Monitor in his/her investigations.
- H. Remedies. If as a result of any protest filed or any investigation undertaken by the Neutral Monitor with or without a protest, the Neutral Monitor determines that these Rules have been violated, the Neutral Monitor may take

whatever remedial action is appropriate.

- I. 1. Appeals. All appeals from decisions of the Neutral Monitor shall be made in writing to the TWU Committee on Appeals. The applicable procedure to appeal from a decision of the Neutral Monitor shall be that which is set forth in Article XXII of the TWU Constitution for appeal to the International from decision of Local Unions, except that appeals must be made within three (3) business days of the decision of the Neutral Monitor.
- I. 2. If no appeal is taken from the determination of the Neutral Monitor, that determination shall become final and binding.

7. Voting and Ballot Count Procedures

- A. All candidates and slate representatives will have an opportunity to view and comment on the draft of the ballot and instructions.
- B. AAA will send the Elections Committee a daily list of all members requesting a duplicate ballot whose names the AAA has not been able to find on its lists. The Elections Committee will investigate these names as quickly as possible and report back to AAA as to the member's eligibility to receive a ballot. If the Committee finds that the person is not eligible or does not get back to the AAA with the person's status within 48 hours after receiving the name from AAA, then AAA will send the person a challenged ballot. AAA will fax or e-mail to the Elections Committee, Elections Committee Chair, and Neutral Monitor on a daily basis the names, divisions and pass numbers of all those receiving challenged ballots. The Elections Committee will fax or e-mail these lists to candidates; slate representatives on request to the extent practicable. All parties agree that these lists are to be used for the sole purpose of investigating the eligibility to vote of the people listed, so that if it becomes necessary to resolve challenges on the day of the count, their status can be more readily determined.
- C. If any member does not receive a ballot within three (3) days of the mailing date, he or she should call the AAA at 800-529-5218. It is preferable for all members to mail their return

ballots and to do so as soon as possible after receiving them in the mail. If someone is requesting a duplicate ballot on behalf of someone else, the member for whom the request is made must sign the written request for a duplicate ballot, which may then be mailed or faxed to AAA. No duplicate ballot will be mailed less than three (3) days before the count. No one may pick up or drop off a ballot in person. If a member who has timely requested a duplicate ballot by phone has not yet received it in the mail, he or she should contact the Neutral Monitor.

- D. If more than one ballot is received by the AAA from any person, the later posted ballot will be the one counted. AAA will note the day of receipt of any ballot(s) received from a person sent a duplicate ballot, so that the order of posting of multiple ballots received might be determined in the absence of a postmark.
- E. If a voter votes for more than the set number of candidates for a given office, his/her ballot will be void for that office only. If the voter votes for a slate, the slate vote will be treated as an individual vote for every member of the slate, so that if the voter votes for a slate and for an independent candidate or an individual candidate on another slate, the ballot will be void for that office only.
- F. If a voter makes any identifying marks on the ballot or erases or defaces the ballot in a manner that makes his/her intent unclear, the ballot will be void or will be void for the office marked in an ambiguous manner. If, however, the voter makes marks or comments on the ballot that do not identify the member or obscure his/her intent, the ballot will be counted.
- G. If a return envelope is completely blank or the return ID completely illegible, the ballot will be void. If there is a partial ID, the AAA will attempt to identify the voter by matching the number on the envelope with the number on the AAA mailing list and then comparing the ID on the envelope with the voter information on the list. A name, an address with street name and number, a signature and/or a pass number will constitute sufficient partial

identification to allow such a matching process, so long as the ID is legible.

- H. Each independent candidate or slate may have the same number of candidates/ observers as there will be stations for counting the ballots for their office(s). The exact number will be determined several days before the count, based on the number of returns.

8. Election Count Candidates & Observers Rules

- A. Any candidate who wishes to designate a member in good standing as an observer must notify the Elections Committee in writing.
- B. Candidates and observers may not count or handle the ballots.
- C. Campaign apparel, stickers or buttons may not be worn in the room where counting takes place.
- D. Candidates/observers may not engage in campaign activities, including conversations about candidates or conversations about the election campaign in the room where counting takes place. Candidates/observers who are disruptive may be ordered to leave the counting area.
- E. Candidates/observers must enter and exit through the designated door only.
- F. Candidates/observers must sign in and sign out each time they enter or exit the room.
- G. Candidates/observers may not address the ballot counter. The member must request the counters to stop and address the issue with the Neutral Monitor.
- H. Candidates/observers are permitted to view all aspects of the election process, but must give the ballot counters room to do their job.
- I. The Neutral Monitor will look for the Head of Slate or their designated observer to discuss issues.
- J. No one will be permitted to bring knapsacks or oversized bags into the count room.

9. Procedures for Mailings of Campaign Literature

- A. Each candidate shall be permitted a reasonable opportunity, equal to that of any other candidate, to have literature mailed or e-mailed to all or part of the Surface Maintenance Division membership, at the candidate's

expense. Each candidate is entitled to a reasonable number of mailings, whether or not any other candidate makes such request(s). Requests for mailing shall be made to the Elections Committee at least five (5) days before the desired mailing date. The mailing list will be transmitted by the AAA to the mailer designated by the Elections Committee.

- B. All reasonable requests by candidates for distribution of campaign literature will be honored.
- C. All written requests will be honored in the order received.
- D. Arrangements will be made by the Elections Committee with a professional mailer, or e-mail service provider to handle the mailing or e-mailing of campaign literature.
- E. All costs for the mailing or e-mailing of campaign literature will be borne solely by the candidate. Costs associated with the mailings include, but are not limited to:
 - 1. Address labels, materials, and labor
 - 2. Postage
 - 3. Fees as determined by the outside mailer
- F. The outside mailer chosen shall be one prepared to provide candidates with either bulk rate or first class service at the candidate's expense. Once the Elections Committee is contacted by the candidate regarding the volume of the mailing, the Elections Committee will inform the candidate of the estimated cost of the mailing. Cost will vary according to volume. Payment by cashier's check or cash must be made upon delivery of the campaign materials to the mailer. No personal checks will be accepted by the mailer.

LOCAL 100 ELECTIONS COMMITTEE

| | |
|--------------------------------------|---|
| David Francis, Chairman | 212.873.6000, x2089 |
| Bernadette Murray, Secretary | 212.873.6000, x2059 |
| Aquilino Castro, Member | 212.873.6000 x 2059 |
| Nicholas Lucas, Member | 212.873.6000 x 2059 |
| Elections Committee e-mail: | elections2010@twulocal100.org |
| Arthur Z. Schwartz, Counsel e-mai: | districtleader@msn.com |
| Election Fax: | 212.579.3381 |
| Dan Silverman, Neutral Monitor | 718.237.8693 |
| | 718.855.2933 (fax) |
| | dan@silvermansilverman.com |
| Election materials are available at: | www.twulocal100.org/elections2010 |

