

A Magazine for the Federation of Private Employees

A DIVISION OF THE NATIONAL FEDERATION OF PUBLIC AND PRIVATE EMPLOYEES (AFL-CIO)

THE FEDERATION FORUM

Affiliated with District 1-MEBA (AFL-CIO)

Spring 2009



Special Election Edition 2009

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P r e s i d e n t ' s M e s s a g e

Dear Members,

The last two (2) years of organizing have increased our membership by hundreds. The recent down turn in our economy has affected those numbers through employer cut backs and layoffs. Together we can help turn things around.



Guy T. Masters
Division President

How can you help restore laid-off workers and thousands of jobs nationally? **CALL YOUR SENATORS TODAY TOLL FREE AT 1-866-207-2060 and URGE THEM TO CO-SPONSOR AND SUPPORT THE EMPLOYEE FREE CHOICE ACT.**

Please help our employees at the United Space Alliance (Kennedy Space Center) by writing, calling or emailing your State and Federal Senators and Congressman. Tell them to extend the Space Shuttle Program (scheduled to end 2010) for two (2) or three (3) years. The new Constellation Space Program begins in 2015. This five (5) year gap would result in thousands of lost jobs, foreclosures and deliver a serve blow to an already fragile economy with high unemployment and one of the highest foreclosure rates in the nation.

We urge all our members, their friends and families to help by addressing the two (2) issues just mentioned. To find your Federal, State Senators and Congressman go to www.whitehouse.gov or check the government (blue) pages of your local phonebook.

Keep change alive by getting involved, being informed, getting active and uniting for a common cause, working families. Solidarity builds success.

Fraternally,

Guy T. Masters
Division President

GRIEVANCE ROUND-UP



The Employee Free Choice Act does not invent Majority Sign Up, and it does not eliminate Secret Ballot elections. Both of these paths have been around since the National Labor Relations Act passed in 1935. The National Labor Relations Board deals with all the laws and appropriate processes associated with a workplace becoming unionized.

When Big Business figured out that if they insisted on elections they could stall and intimidate workers, (even firing them 20% of the time,) the option of majority sign-up all, but ceased to be an avenue to unionism.

What is being proposed is an amendment to the National Labor Relations Act. The same dual path that has always been there (election/majority sign-up) is still there. It simply cleans up the language so that the decision to form a union and the decision of whether or not to recognize a union either by election OR majority sign up is in the hands of the workers, not the boss.

-Glynda

IN MEMORY OF OUR UNION BROTHER

David Robbins
1-11-09



Guy Masters
Division President/
National Director
of Organizing



Glynda Linton
Division Secretary/
Treasurer

NELSON TREE SERVICE, INC.

An employee was previously written up for a safety violation which was grieved and then filed by the Union and scheduled for arbitration on April 30, 2009. The case was withdrawn from arbitration after Nelson Tree agreed to remove the write up from the employees file and to not consider it as any progressive discipline in the future. The Union settled a grievance for failure to sign a write up, which was scheduled for arbitration on April 29, 2009. The employee received his back pay for the suspension and the discipline was dismissed.

An arbitration scheduled for March 18 for a 3 day suspension for insubordination is being rescheduled by the arbitrator.

The arbitration for reduction of pay when another employee calls in sick is scheduled for June 18, 2009. The three (3) Class Action Lay-off arbitrations are awaiting dates from the arbitrator's.

-Guy T. Masters

Weingarten Rights

The Right to Union Representation During an Investigatory Hearing

- 1** Union members have a right to union representation at an investigatory hearing if they reasonably believe that the investigation could lead to disciplinary action.
- 2** The member must request a representative; the employer has no obligation to inform the employee of this right.
- 3** Management does not have to call the representative. Instead, the employer can stop the meeting, or just issue discipline.
- 4** Once a union representative is called, he/she has the following rights:
 - To know the subject of the investigatory hearing
 - To confer with the member prior to the hearing
 - To speak/participate in the hearing

But the representative cannot argue the case. This is not a grievance hearing.

Weingarten Summary:

Representation must be requested.

- Silence can be an effective waiver.
- There is no voluntary waiver of the right when the employee is threatened with a harsher penalty if the matter goes to a higher level.
- The employee does not have to remain adamant in their request for union representation.
- The employee may not leave the interview and seek out a union representative in violation of their supervisor's orders and established policy.
- A specific union representative need not be provided if he/she is unavailable due to personal or other reasons for which the employer is not responsible.
- The employee may consult with their representative before an investigatory meeting, and either the employee or the representative may request a pre-investigatory conference.

Division Elections

The Division By-Laws Article Seven, Elections for Division Officers, Delegates and other positions provide for elections in the 2009 calendar year.

Section 1. General Provisions:

Elections shall be held at regular three (3) year intervals, commencing in 1997. Such elections shall be held by referendum and all balloting shall be done by use of a secret ballot. Write-in votes shall not be permitted and any such vote for any office shall be void. Notwithstanding any provision to the contrary in these By-Laws, the ballot envelope shall have on its face an official number assigned to each member. Lists of the names of the membership, together with the corresponding official numbers, shall be available to the Tallying Committee of the Division for the purpose of checking, at the time of the count, the voting eligibility of the members whose ballots have been received. All ballots shall be returned to the depository predetermined by the Division President, to ensure the secrecy of the ballot, and held there until the time designated for the counting of such ballots.

Except as otherwise specifically provided herein, any challenge to the conduct of a Division election shall be made not later than thirty (30) days from the date of the count of the ballots; such challenge must be in writing, setting forth the specific conduct challenged and signed by the complaining member or members and shall be sent by certified or registered mail to the Division Executive Committee, which shall hold hearings thereon within thirty (30) days of receipt of the challenge and shall make its decision within thirty (30) days after the conclusion of the hearings.

The decision of the Executive Committee may be appealed to the Division membership at the first regularly scheduled membership meeting after receipt of the written notice of appeal. The written notice of appeal must be received within twenty (20) days after the date of mailing of notification of the decision of the Executive Committee to the challenging member. If the notice of appeal is received by the Division President less than five business days before the first such regular membership meeting, then the appeal shall be presented to the next regularly scheduled membership meeting. A majority of the members voting at such meeting shall control. Appeals may then be taken to the National Executive

Committee and the National Convention as provided in the National Constitution. The action of the Executive Committee, the Division Membership and the National Executive Committee, respectively, on any such appeal, shall be deemed final pending appeal to the next higher body.

Section 2. Pre-Balloting Report:

At the regular membership meeting of the Division held in the month immediately preceding the June qualifying period of each election year, the Division President shall, subject to the approval of the Division Executive Committee, submit to the membership of the Division a written pre-balloting report. In his or her report, the Division President shall designate: (1) the total number of delegates to be elected from the Division to be delegates at the National Convention(s), based upon the total number of members in good standing with the Division as of the last calendar day of the month preceding the membership meeting; (2) a listing of the officer(s) and or other position(s) that will be subject to election; and (3) the depository to which the ballots shall be mailed or delivered.

Section 3. Delegate Representation:

The total Division delegate vote at the National Convention shall be calculated on the basis of its total membership as of the last calendar day of the month preceding the membership meeting as described in ARTICLE SEVEN, Section 2 above, and shall be one delegate per every 500 members in good standing or any fraction thereof, in addition to one delegate vote per officer of the Division. The election of said delegates shall be governed by these By-Laws and the National Constitution.

Section 4. Time of Election of Officers and Delegates:

Delegates to the National Convention shall be elected by the Division at the time of election of Division officers.

Section 5. Eligibility of Delegates:

All members eligible for election to an officer position shall be eligible for election as delegates to the National Conventions. The Division officers shall be delegates to the National Convention(s), pursuant to ARTICLE NINE, Section 3(a) of the National Constitution. At the election of officers of this Division it shall be stated, that, in addition

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Section 6. Nominations:

according to the findings of the Committee. Where a nominee has been marked "disqualified", the reason therefore must be stated in the report. The report shall be signed by all the Committee members, and be completed and submitted to the Division Executive Committee at Division Headquarters by no later than July 15th.

When a nominee has been disqualified by the Credentials Committee, he or she shall be notified by registered or certified mail at the address listed by him or her in the nomination petition, sent on or before July 20th of the election year, and setting forth the reasons for such disqualification.

A disqualified nominee shall have the right to take an appeal to the membership from the decision of the Committee. He or she shall forward copies of such appeal to the Division Executive Committee, where it must be received on or before the close of business of August 1 of the election year. If August 1 is a Saturday or a Sunday, such appeal must be received by the close of business on the following Monday. The Executive Committee shall determine the propriety of the appeal and whether or not the Credentials Committee erroneously disqualified the applicant. The decision of the Executive Committee shall be final and binding. A majority vote of the Executive Committee is sufficient to overcome any disqualification by the Credentials Committee and such vote may be taken by telephone poll or by written communication.

Each member of the Committee shall be paid at a rate of pay and be reimbursed for legitimate out-of-pocket expenses as determined by the Division Executive Committee.

Section 8. Balloting Procedure:

The Division President shall insure the proper and timely preparation of ballots without partiality as to candidates or offices. The names of the candidates for each separate office or position shall appear in alphabetical order. The names of all candidates shall be numbered in sequence commencing with the first name under the first office and ending with the last named candidate under the last office. The ballots may contain voting instructions not inconsistent with the provisions of these By-Laws.

The ballots so prepared at the direction of the Division President shall be the only official ballots. No others may be used. A sufficient amount shall be printed and distributed. A record of the ballots distributed shall be

maintained by the Division President.

Ballots must be cast by mail to a predetermined depository, as provided in ARTICLE SEVEN, Section 1(a) of these By-Laws, and secured and paid for by this Division. Secrecy of the ballots must be assured. No signature of any voter or other distinguishing mark shall appear on the ballot.

No member's ballot shall be counted unless he or she is in good standing as of fifteen (15) days immediately preceding the closing of the balloting.

Ballots shall be mailed to the membership on September 1st of the election year, and voting shall thereupon commence, and shall continue until September 30th, inclusive. If September 1st or September 30th falls on a holiday, or a Sunday, balloting shall commence or end, as the case may be, on the next succeeding business day. Ballots postmarked after September 30th shall be automatically disqualified.

The Division President shall designate an Impartial Administrator to supervise the conduct of the election. The Duties of such Impartial Administrator shall include: the mailing of the ballots; assuring the secrecy of and non-accessibility to the depository during the election; the mailing of duplicate ballots on written requests from members; supervising the ballot collection and the tallying procedure with the Tallying Committee; and taking such other actions as may be necessary to secure a fair and impartial election.

Section 9. Ballot Collection, Tallying Procedures, Protests and Special Votes:

The Division President shall appoint a Tallying Committee of three members in August of each election year. On the fifth business day after September 30th, the Tallying Committee and the Impartial Administrator shall proceed to the depository with an empty ballot box, remove all the ballots from the Depository and place them in the empty ballot box in the presence of the entire Committee, the Impartial Administrator and any member or candidate observers. The Committee and Impartial Administrator shall then seal the ballot box and return it to Division Headquarters, where it shall remain sealed and in the custody of the Tallying Committee and the Impartial Administrator until such time as the ballots are checked and counted.

The Impartial Administrator and the Tallying

Committee are charged with the tally of all the ballots and the preparation of a report setting forth in complete detail the results of the election, including a complete accounting of all ballots, and reconciliation of the same with rosters and verification lists of membership. The report shall clearly detail all discrepancies discovered and shall contain recommendations for the treatment of these discrepancies. The Impartial Administrator and all members of the Committee shall sign the report, without prejudice, however, to the right of any member thereof to submit a dissenting report as to the accuracy of the count and the validity of the ballots, with pertinent details. Each candidate, as well as the other members of the Division, shall be entitled to be present as an observer at the tally of the ballots, provided that such observer must be a member of the Division in good standing.

The Impartial Administrator and the Tallying Committee are also charged with the receipt and evaluation of written protests by any member who claims an illegal denial of the right to vote. If they find the protest invalid, they shall dismiss the protest and so inform the protesting member by telegram or other means of communication. If they find the protest valid, the Impartial Administrator and the Committee shall permit such member on such terms as may be practical to cast his or her vote. The reports of the Impartial Administrator and this Committee shall include a brief summary of each protest received, the name and social security number of the protesting member, and a summary of the disposition of said protest.

The Impartial Administrator and the Tallying Committee shall commence their work on the day that the ballots are collected and shall complete their work as quickly as possible. The reports of the Impartial Administrator and the Tallying Committee shall be filed no later than 24 hours following the completion of the count.

Each member of the committee and the Impartial Administrator shall be paid at a rate of pay and be reimbursed for legitimate out-of-pocket expenses as determined by the Division Executive Committee. The proceedings of the Committee and the Impartial Administrator, except for the actual preparation of the Report and dissents therefrom, if any, shall be open to any member of the Division in good standing.

A majority of the membership, at the election report

meeting, may order a recheck and recount where a dissenting report has been issued by one or more members of the Tallying Committee.

In the event of a tie vote for any office, the Division President shall, within ten (10) days, direct a runoff election among the candidates receiving the tie vote. The candidate receiving the highest vote in such runoff shall be deemed elected.

All reports of the Impartial Administrator, the Tallying Committee and the Division President under this Article shall be filed in the Division Headquarters office.

Section 10. Installation:

The person elected shall be that person having the largest number of votes cast for the particular office or position involved. Where more than one person is to be elected for a particular office or position, the proper number of candidates receiving the successively highest number of votes shall be declared elected. It shall be the duty of the Division President to notify each duly elected candidate.

The duly elected Division President, Division Secretary-Treasurer, Division Vice-President(s), and delegates to the National Conventions, shall take over their respective offices and positions, and assume the duties thereof at midnight November 1. At that time, the terms of their predecessors shall expire. Before assuming office, every officer, delegate and position holder shall take the following oath:

“I, _____, do hereby sincerely pledge my honor to perform the duties of my office or position as prescribed by the National Constitution, and the By-Laws of this Division, and to uphold the principles of these instruments to the best of my ability. I will deliver to my successor in office all books, papers and other property of this Division that may be in my possession at the close of my official term.

All this I solemnly promise with the full knowledge that to violate this pledge, is to stamp me as a person devoid of principle and destitute of honor.”

In the event a candidate for office who has received the highest number of votes dies before being installed, the office for which the candidate was running shall be decreed vacant and filled in accordance with the provisions of ARTICLE FIVE herein.



FEDERATION CONTACT INFORMATION

FEDERATION OFFICE HOURS
 MONDAY-THURSDAY 8 A.M. - TO 6 P.M.
 FRIDAY 8 A.M. - TO 4 P.M.

www.FederationMembers.org

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Controller

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Editor; Project Coordinator

Important Dues Information

As a union member who is on payroll dues deduction for your monthly union dues, you need to know the following:

If you are on **Worker's Compensation Leave, Disability Leave, Maternity Leave**, etc... then you are no longer on the payroll and monthly union dues are not being deducted and remitted. Therefore, you are responsible for sending in your minimum monthly union dues of **\$15.00** to the Federation (1700 N.W. 66th Avenue; Suite 100; Fort Lauderdale, Florida 33313) in order to maintain your active member status with the union. **If you do not send in the minimum dues requirement, then you may be dropped from the union membership and lose the free Life Insurance that the Federation provides.**

When you return to work, check your pay stub for union dues deductions. If your union dues deduction has not been reinstated, please contact the Federation and your payroll department immediately.

Should you have any questions please contact Chris Mahadeo at 954-797-7575 ext. 228 for further details.

The Federation of Private Employees

A Division of NFOPAPE (AFL-CIO)
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PRSTD FIRST CLASS
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 PERMIT #439