

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS



Vincent J. Bollon
Affiliate Leadership Training Summit

Ernest A. "Buddy" Mass
Human Relations Conference

January 19-22, 2020 | Lake Buena Vista, Florida



ERNEST A. "BUDDY" MASS
HUMAN RELATIONS
CONFERENCE

Local Union Governance and IAFF Legal Services

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January 18, 2020

Overview

- **Local Constitution and By-Laws**
- **Elections**
- **Misconduct, Charges and Trial Boards**
- **Organizing Basics Under the NLRA**
- **Overview of IAFF Guardian and Emergency Disputes Fund Policies**



Local Governance/Local Autonomy

- **Article XIII of IAFF Constitution and By-Laws pertains to Local Union Governance.**
- **Sect. 3: Government Constitution and By-Laws: Affiliates must abide by the provisions of the IAFF Constitution and By-Laws.**
- **Affiliates must also adopt their own Constitution & By-Laws which establish procedures for the local to conduct its own internal business. *If there is conflict, the IAFF Constitution & By-Laws will be controlling.***



Local Constitution and By-Laws

- Following adoption by the local union but prior to printing, the local CBL must be submitted to the IAFF General President for approval. This includes any amendments to a local CBL.
- With the exception of increases to initiation fees and dues, changes to the local CBL do not become effective until approved by the General President.
- Increases in dues or fees become effective upon approval of the membership in accordance with the IAFF Constitution & By-Laws.



Local Constitution and By-Laws

- How to submit:
 - Email to: CONSTITUTION@IAFF.ORG
 - Provide as a word document in **redline** format
 - Also provide a “clean” copy for posting if approved
- IAFF Sample Local Constitution and By-Laws is available on the IAFF.ORG website



Local Elections

Nominations and Elections of Officers: Art. XIII, Sect. 11 of the IAFF CBL provides that nominations and elections of local officers must be conducted in the form or manner, and in accordance with the procedures, established by the local's CBL.

However, delegates and alternates to the International Convention must be elected by secret ballot vote of the members in good standing.



Local Elections

- **Members must be given advance written notice of the date, time, and place at which nomination may be made.**
- **Written notice of date, time, place, and manner of election, and the offices up for election, must be MAILED to each member 15 days in advance.**
- **We have an ALTS Presentation on Conducting Local Union Elections that will be held on Tuesday from 2:00 – 4:00 pm.**



Internal Union Discipline: IAFF Constitutional Provisions

- **IAFF Constitution & By-Laws provides procedural protections for our members, including that no member shall be disciplined unless the member is served with written specific charges as required by Art. XVI and afforded a trial as provided by Art. XVII.**
- **The exception is a failure to pay dues or assessments, which may result in automatic suspension.**



Article XV: Misconduct and Penalties

Article XV lists the conduct that may constitute misconduct, including:

- **Violation of the IAFF or Local Constitution & By-Laws**
- **Fraud, embezzlement, and larceny**
- **Libel or slander**
- **Membership in a rival organization**
- **Conduct detrimental to the best interests of the Association**



Article XVI: Charges

The charge(s) must:

- Be in writing and signed by the charging party.
- State the specific act or acts complained of.
- Refer to the Articles and Sections of the Constitution & By-Laws allegedly violated.
- Charged party may, within thirty days of receiving the charge, request that a Pre-Trial Review Board make an initial determination of whether the charges are frivolous, retaliatory, or de minimus.



Article XVII: Trials

Selecting the Trial Board:

- Trial Board is selected with the assistance of the District Vice President as Appointing Officer, from seven names randomly drawn from Charged Party's local or from neighboring local.
- The Charging Party strikes two individuals; then the Charged Party strikes two individuals.
- The Trial Board is then comprised of the remaining three members.



Article XVII: Trials

- **Conducting the Trial:**
 - Trial Board must convene within 120 days of receipt of the charges or PTRB decision.
 - Each party may designate a representative to act as his counsel.



Appeals to the IAFF: Article XVIII

- **Any final order or decision of a local union, state or provincial association, or Trial Board may be appealed to the General President, the Executive Board, and ultimately to IAFF Convention Delegates.**
- **The appeal can be brought by any member in good standing adversely affected by the order or decision.**



Fiduciary Obligations: IAFF Constitutional Provisions

- All locals must have an “independent inspection” of the books and accounts performed annually.
- A financial report of this inspection must be forwarded to the General Secretary-Treasurer within 180 days of the close of the local’s fiscal year.
- All local union books are subject to audit at any time by the General Secretary-Treasurer.
- Officers and employees must be bonded, and the expense of the first \$5,000 of bond is paid by the IAFF.



Organizing Basics Under the NLRA

- **Showing of interest – at least 30%**
- **Preliminary Investigation (adequacy of showing, appropriateness of proposed unit, etc.)**
- **Options:**
 - **Agreed Election**
 - **Ordered Election**
 - **Voluntary recognition upon showing of interest – more than 50% of Bargaining Unit**



Organizing Basics Under the NLRA

- **Pre-election hearing**
- **Secret ballot election**

Note: Supervisors are excluded from coverage under the NLRA. They cannot be included in the bargaining unit and have no right to organize a separate officers' unit.



Organizing Tribal Fire Fighters

- **Whether tribal firefighters are protected by the NLRA will largely turn on the nature of the operation. If the firefighters are exempt from federal labor law, organizing would be governed tribal labor law, if any.**
- **Basic test is that statutes such as the NLRA, apply and negate tribal sovereignty unless (1) the Act touches exclusive rights of self-government in purely internal matters; (2) application of the Act would nullify treaty rights; or (3) the statutory language or legislative history indicates that Congress did not intend it to apply to Indian tribes.**



Organizing Tribal Fire Fighters

- A number of NLRB decisions have come down in favor of applying the NLRA to tribally owned *casinos*, emphasizing the fact that the casinos are large commercial enterprises that have employees and customers who are primarily from outside the tribe.
- However, because fire departments perform a more traditional governmental function, *the Board has consistently declined to assert jurisdiction over Indian tribes when they are acting in such capacities.*



Guardian Policy

Provides legal assistance directly from General Counsel's Office in two types of situations:

- **Where union officers have been disciplined or discriminated against because of their union activities; or**
- **Litigation involving an affiliate or a member which is expected to have a precedent-setting impact (helpful or harmful) on other IAFF affiliates and members.**



Guardian Policy

Procedure:

- **Work with your DVP to complete application**
- **Guardian Opinion Letter is drafted for presentation to the General President**
- **The General President has the authority to approve or disapprove**



Emergency Disputes Fund Policy

- **Provide financial assistance to offset legal expense for covered matters**
- **This is a cost sharing policy, where coverage is limited to 80% of submitted legal invoices and is capped at \$50,000 (with one exception that will be noted)**
- **EDF Assistance requires a completed application supported by your DVP, itemized legal invoices, and approval by the Executive Board**



Emergency Disputes Fund Policy

EDF Grants:

- Lawful job action (i.e. lawful strike)
- Administrative challenges to disciplinary actions against leaders for union related activities (must seek Guardian opinion letter, *capped at \$20,000*)
- Employer's refusal to implement an arbitration award
- Bona fide emergencies that “could not have been anticipated” by local and would result in loss of jobs, stations/companies



Emergency Disputes Fund Policy

EDF Loans:

- **5-year interest free loan (may be extended an additional 5 years with unanimous Executive Board approval)**
- **Contract impasse resolution, such as fact finding or interest arbitration**
- **Unfair labor practice or grievance involving the application or interpretation of a contract or a civil service provision, except those involving routine or ordinary disciplinary action**

