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vote in connection with regular elections subject to these provisions, the primary election or other procedure must be conducted in accordance with the same standards required under the Act for the final election.

§ 452.30 Run-off elections.

A run-off election must meet the standards set forth in title IV if the original election was subject to the requirements of the Act. For example, if the run-off is to be held at the same meeting as the original election, the original notice of election must have so stated and all records pertaining to the run-off must be retained.

§ 452.31 One candidate for several offices.

Where a union constitution or other validly adopted rule provides that a single elected officer will perform the functions of more than one office, a separate election need not be held for each office.

Subpart E—Candidacy for Office; Reasonable Qualifications

§ 452.32 Persons who may be candidates and hold office; secret ballot elections.

Section 401(e) provides that in any election of officers required by the Act which is held by secret ballot, every member in good standing with the exceptions explained in sections following shall be eligible to be a candidate and to hold office. This provision is applicable not only to the election of officers in local labor organizations, but also to elections of officers in national or international and intermediate labor organizations where those elections are held by secret ballot referendum among the members, and to the election of delegates to conventions at which officers will be elected.

§ 452.33 Persons who may be candidates and hold office; elections at conventions.

Where elections of national or international labor organizations or of intermediate bodies are held at a convention of delegates elected by secret ballot, protection of the right to be a candidate and to hold office is afforded by the requirement in section 401(f) that the convention be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of title IV. If members in good standing are denied the right to be candidates by the imposition of unreasonable qualifications on eligibility for office such qualifications would be inconsistent with the provisions of title IV.

§ 452.34 Application of section 504, LMRDA.

The eligibility of members of labor organizations to be candidates and to hold office in such organizations is subject only to the provisions of section 504(a), which bars individuals convicted of certain crimes from holding office in labor organizations[23] and to reasonable qualifications uniformly imposed. A person who is barred from serving in union office by section 504(a) is not eligible to be a candidate. However, a labor organization may permit a person who is barred from holding union office by section 504(a) to be a candidate for office if the section 504 disability will terminate by the customary date for the installation of officers. A labor organization may within reasonable limits adopt stricter standards than those contained in section

[23] The disabling crimes set forth in the Act, sec. 504(a), as amended by sec. 803 of the Comprehensive Crime Control Act of 1984, Public Law 98–473, (29 U.S.C. 504) are robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, any felony involving abuse or misuse of a position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element.''

NOTE: The U.S. Supreme Court, on June 7, 1965, held unconsitutional as a bill of attainder the section 504 provision which imposes criminal sanctions on Communist Party members for holding union office; *U.S.* v. *Brown*, 381 U.S. 437.

504(a) by extending the period of disability or by barring from union office persons who have been convicted of crimes other than those specified.

[38 FR 18324, July 9, 1973, as amended at 50 FR 31311, Aug. 1, 1985]

§ 452.35 Qualifications for candidacy.

It is recognized that labor organizations may have a legitimate institutional interest in prescribing minimum standards for candidacy and office-holding in the organization. On the other hand, a dominant purpose of the Act is to ensure the right of members to participate fully in governing their union and to make its officers responsive to the members. A basic assumption underlying the concept of ''free and democratic elections,'' is that voters will exercise common sense and good judgment in casting their ballots. In union elections as in political elections, the good judgment of the members in casting their votes should be the primary determinant of whether a candidate is qualified to hold office. Therefore, restrictions placed on the right of members to be candidates must be closely scrutinized to determine whether they serve union purposes of such importance, in terms of protecting the union as an institution, as to justify subordinating the right of the individual member to seek office and the interest of the membership in a free, democratic choice of leaders.

§ 452.36 Reasonableness of qualifications.

(a) The question of whether a qualification is reasonable is a matter which is not susceptible of precise definition, and will ordinarily turn on the facts in each case. However, court decisions in deciding particular cases have furnished some general guidelines. The Supreme Court in *Wirtz* v. *Hotel, Motel and Club Employees Union, Local 6*, 391 U.S. 492 at 499 (1968) held that:

> Congress plainly did not intend that the authorization in section 401(e) of 'reasonable qualifications uniformly imposed' should be given a broad reach. The contrary is implicit in the legislative history of the section and in its wording that 'every member in good standing shall be eligible to be a candidate and to hold office * * *.' This conclusion is buttressed by other provisions of the Act which stress freedom of members to nominate candidates for Office. Unduly restrictive candidacy qualifications can result in the abuses of entrenched leadership that the LMRDA was expressly enacted to curb. The check of democratic elections as a preventive measure is seriously impaired by candidacy qualifications which substantially deplete the ranks of those who might run in opposition to incumbents.

Union qualifications for office should not be based on assumptions that certain experience or qualifications are necessary. Rather it must be assumed that the labor organization members will exercise common sense and judgment in casting their ballots. ''Congress' model of democratic elections was political elections in this country'' (*Wirtz* v. *Local 6*, 391 U.S. at 502) and a qualification may not be required without a showing that citizens assumed to make discriminating judgments in public elections cannot be relied on to make such judgments when voting as union members.

(b) Some factors to be considered, therefore, in assessing the reasonableness of a qualification for union office are:

(1) The relationship of the qualification to the legitimate needs and interests of the union;

(2) The relationship of the qualification to the demands of union office;

(3) The impact of the qualification, in the light of the Congressional purpose of fostering the broadest possible participation in union affairs;

(4) A comparison of the particular qualification with the requirements for holding office generally prescribed by other labor organizations; and

(5) The degree of difficulty in meeting a qualification by union members.

§ 452.37 Types of qualifications.

Ordinarily the following types of requirements may be considered reasonable, depending on the circumstances in which they are applied and the effect of their application:

(a) *Period of prior membership*. It would ordinarily be reasonable for a local union to require a candidate to have been a member of the organization for a reasonable period of time, not exceeding two years, before the election. However, if a member is involuntarily compelled to transfer from