particular meeting attendance requirements to be unreasonable under the following circumstances: One meeting during each quarter for the three years preceding nomination, where the effect was to disqualify 99 percent of the membership (*Wirtz* v. *Independent Workers Union of Florida*, 65 LRRM 2104, 55 L.C. par. 11,857 (M.D. Fla., 1967)); 75 percent of the meetings held over a two-year period, with absence excused only for work or illness, where over 97 percent of the members were ineligible (*Wirtz* v. *Local 153, Glass Bottle Blowers Ass'n*, 244 F. Supp. 745 (W.D. Pa., 1965), order vacating decision as moot, 372 F. 2d 86 (C.A. 3 1966), reversed 389 U.S. 463; decision on remand, 405 F.2d 176 (C.A. 3 1968)); *Wirtz* v. *Local 262, Glass bottle Blowers Ass'n.*, 290 F. Supp. 965 (N.D. Cal., 1968)); attendance at each of eight meetings in the two months between nomination and election, where the meetings were held at widely scattered locations within the State (*Hodgson* v. *Local Union No. 624 A-B, International Union of Operating Engineers*, 80 LRRM 3049, 68 L.C. par. 12,816 (S.D. Miss. Feb. 19, 1972)); attendance at not less than six regular meetings each year during the twenty-four months prior to an election which has the effect of requiring attendance for a period that must begin no later than eighteen months before a biennial election (*Usery* v. *Local Division 1205, Amalgamated Transit Union*, 545 F. 2d 1300 (C.A. 1, 1976)).

[38 FR 18324, July 3, 1973; as amended at 42 FR 39105, Aug. 2, 1977; 42 FR 41280, Aug. 16, 1977; 42 FR 45306, Sept. 9, 1977; 50 FR 31311, Aug. 1, 1985; 60 FR 57178, Nov. 14, 1995]

§ 452.39 Participation in insurance plan.

In certain circumstances, in which the duties of a particular office require supervision of an insurance plan in more than the formal sense, a union may require candidates for such office to belong to the plan.

§ 452.40 Prior office holding.

A requirement that candidates for office have some prior service in a lower office is not considered reasonable.[26]

[26] *Wirtz* v. *Hotel, Motel and Club Employees Union, Local 6*, 391 U.S. 492 at 504. The Court stated that the union, in applying such a rule, ''* * * assumes that rank and file union members are unable to distinguish qualified from unqualified candidates for particular offices without a demonstration of a candidate's performance in other offices. But Congress' model of democratic elections was political elections in this Country, and they are not based on any such assumption. Rather, in those elections the assumption is that voters will exercise common sense and judgment in casting their ballots. Local 6 made no showing that citizens assumed to make discriminating judgments in public elections cannot be relied on to make such judgments when, voting as union members * * *.''

§ 452.41 Working at the trade.

(a) It would ordinarily be reasonable for a union to require candidates to be employed at the trade or even to have been so employed for a reasonable period. In applying such a rule an unemployed member is considered to be working at the trade if he is actively seeking such employment. Such a requirement should not be so inflexible as to disqualify those members who are familiar with the trade but who because of illness, economic conditions, or other good reasons are temporarily not working.

(b) It would be unreasonable for a union to prevent a person from continuing his membership rights on the basis of failure to meet a qualification which the union itself arbitrarily prevents the member from satisfying. If a member is willing and able to pay his union dues to maintain his good standing and his right to run for office, it would be unreasonable for the union to refuse to accept such dues merely because the person is temporarily unemployed. Where a union constitution requires applicants for membership to be actively employed in the industry served by the union, a person who becomes a member would not be considered to forfeit his membership in the union or any of the attendant rights of membership merely because he is discharged or laid off.

(c) Ordinarily members working part-time at the trade may not for that reason alone be denied the right to run for office.

(d) A labor organization may postpone the right to run for office of members enrolled in a bona fide apprenticeship program until such members complete their apprenticeship.

§ 452.42 Membership in particular branch or segment of the union.

A labor organization may not limit eligibility for office to particular branches or segments of the union where such restriction has the effect of depriving those members who are not in such branch or segment of the right to become officers of the union.[27]

§ 452.43 Representative categories.

In the case of a position which is representative of a unit defined on a geographic, craft, shift, or similar basis, a labor organization may by its constitution or bylaws limit eligibility for candidacy and for holding office to members of the represented unit. For example, a national or international labor organization may establish regional vice-presidencies and require that each vice-president be a member of his respective region. This kind of limitation would not be considered reasonable, however, if applied to general officers such as the president, vice-president, recording secretary, financial secretary, and treasurer. If eligibility of delegates to a convention which will elect general officers is limited to special categories of members, all such categories within the organization must be represented.

§ 452.44 Dual unionism.

While the Act does not prohibit a person from maintaining membership or holding office in more than one labor organization, it would be considered reasonable for a union to bar from candidacy for office persons who hold membership in a rival labor organization.

§ 452.45 Multiple office holding.

An officer may hold more than one office in a labor organization so long as this is consistent with the constitution and bylaws of the organization.

§ 452.46 Characteristics of candidate.

A labor organization may establish certain restrictions on the right to be a candidate on the basis of personal characteristics which have a direct bearing on fitness for union office. A union may, for example, require a minimum age for candidacy. However, a union may not establish such rules if they would be inconsistent with any other Federal law. Thus, it ordinarily may not limit eligibility for office to persons of a particular race, color, religion, sex, or national origin since this would be inconsistent with the Civil Rights Act of 1964.[28] Nor may it establish a general compulsory retirement age or comparable age restriction on candidacy since this would be inconsistent with the Age Discrimination in Employment Act of 1967, as amended. A union may not require candidates for office to be registered voters and to have voted in public elections during the year preceding their nominations. Nor may it require that candidates have voted in the previous union election to be eligible. Such restrictions may not be said to be relevant to the members' fitness for office.

[53 FR 8751, Mar. 17, 1988, as amended at 53 FR 23233, June 21, 1988]

§ 452.47 Employer or supervisor members.

Inasmuch as it is an unfair labor practice under the Labor Management Relations Act (LMRA) for any employer (including persons acting in that capacity) to dominate or interfere with the administration of any labor organization, it follows that employers, while they may be members, may not be candidates for office or serve as officers. Thus, while it is recognized that in some industries, particularly construction, members who become supervisors, or contractors traditionally keep their union membership as a form of job security or as a means of retaining union benefits, such persons may

[27] *Hodgson* v. *Local Unions No. 18, etc., IUOE,* 440 F. 2d 485 (C.A. 6), cert. den. 404 U.S. 852 (1971); *Hodgson* v. *Local 610, Unit. Elec. Radio & Mach. Work. of Am.,* 342 F. Supp. 1344 (W.D. Pa. 1972).

[28] *Shultz* v. *Local 1291, International Longshoremen's Association,* 338 F. Supp. 1204 (E.D. Pa.), aff'd, 461 F.2d 1262 (C.A. 3 1972).