§ 452.38 Meeting attendance requirements.

(a) It may be reasonable for a labor organization to establish a requirement of attendance at a specified number of its regular meetings during the period immediately preceding an election, in order to insure that candidates have a demonstrated interest in and familiarity with the affairs of the organization. In the past, it was ordinarily considered reasonable to require attendance at no more than 50 percent of the meetings over a period not exceeding two years. Experience has demonstrated that it is not feasible to establish arbitrary guidelines for judging the reasonableness of such a qualification. Its reasonableness must be gauged in the light of all the circumstances of the particular case, including not only the frequency of meetings, the number of meetings which must be attended and the period of time over which the requirement extends, but also such factors as the nature, availability and extent of excuse provisions, whether all or most members have the opportunity to attend meetings, and the impact of the rule, i.e., the number or percentage of members who would be rendered ineligible by its application.

(b) Other guidance is furnished by lower court decisions which have held

In Goldsby v. Amarillo General Drivers, Teamsters Local 377, 214 F. Supp. 74 (N.D. Tex. 1963), the disqualification of five nominees for union office for failure to satisfy a constitutional provision requiring candidates for office to have maintained continuous good standing for two years by paying their dues on or before the first business day of the current month, in advance, was held to be unreasonable. See also Wirtz v. Local Unions No. 9, 9–A and 9–B, International Union of Operating Engineers, 254 F. Supp. 980 (D. Colo. 1965), aff'd, 368 F. 2d 911 (CA 10 1966), vacated as moot 387 U.S. 96 (1967).

25If a meeting attendance requirement disqualifies a large portion of members from candidacy, that large antidemocratic effect alone may be sufficient to render the requirement unreasonable. In Doyle v. Brock, 621 F.2d 778 (D.C. Circuit 1987), the court held that the impact of a meeting attendance requirement which disqualified 97% of the union's membership from candidacy was by itself sufficient to make the requirement unreasonable notwithstanding any of the other factors set forth in 29 CFR 452.38(a).
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 1966)); Wirtz v. Local 262, Glass Bottlers 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)).

§ 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 * * *."