



United Federation of Teachers
A Union of Professionals

MEMORANDUM

TO: Amy Arundell
FROM: Meaghean Murphy
DATE: January 22, 2019
RE: **Election Dos and Donts**

Unions can engage in activities to encourage voter turnout. To ensure fairness and compliance with federal law, the UFT's Legal Department has issued the following guidance for the upcoming election.

Section 401(c) of the Labor Management Reporting and Disclosure Act (LMRDA) provides that a union must provide adequate safeguards to insure a fair election. Efforts should be made to promote equal treatment to all caucuses and candidates. At the school-chapter level, financial resources of any kind should not be used to encourage voting, even if done in a non-partisan manner, as it may have the effect of giving one candidate or caucus an unfair advantage¹.

Holding chapter meetings close to the ballot deadline to encourage members to vote is permissible.

However, don't offer something of value to encourage voting, such as "a bagel for a ballot." Courts have found that use of union resources for ostensibly neutral, legitimate union activity that has the effect of discriminating for or against a candidate violates federal law. This applies to the use of non-union funds, such as a chapter leader's own money, as it may lead to an inference of prohibited partisan efforts conducted on union time to promote one candidate over another.

¹ See Donovan v. Metropolitan District Council of Carpenters, 797 F. 2d 140, (3d Cir. 1986), Usery v. I.O.M.M. & P., 538 F. 2d 946 (2d Cir. 1976).

Don't offer to "bundle" groups of ballots to either drop off at AAA or a post office, or mail anyone else's ballot. This could potentially compromise the secrecy of the ballot². Each member should mail their own ballot. Do not mail ballots from your school's mail box, as this is an impermissible use of Department of Education resources for union business, in violation of the LMRDA, DOE's regulations, and the American Federation of Teachers (AFT) constitution. Instead, encourage members to fill out the ballot before leaving school, and identify the closest mail box near school.

Don't send out any communications regarding the election through the DOE's computers or use DOE email addresses, even if the content is neutral, Get-Out-the-Vote messages. Again, it is an impermissible use of Department of Education resources for union business, in violation of the LMRDA, DOE's regulations, and the AFT constitution.

cc: Beth Norton

² See 29 USC §481(c), Marshall v. Gas Workers Employees' Union of Philadelphia, Local 686, No. 75-1873 (D.N.J.), Marshall v. Retail Clerks, Local 876, No. 4-71648 (E.D. Mich.).