

LA PLATA ELECTRIC ASSOCIATION, INC.

DURANGO, COLORADO

Board of Directors Policy

Subject: Director Elections and Annual Meeting Voting Procedures			Policy No: 105
Original Issue: 4/21/04	Last Revised: 10/21/20	Last Reviewed: 10/21/20	Page 1 of 11

I. OBJECTIVE

The purpose of this policy is to establish procedures for the conduct of contested Board of Director (Board) elections of La Plata Electric Association, Inc. (Cooperative) and other issues presented for approval at the Annual Meeting or any special meetings of the Members called for these purposes and to ensure the fairness of elections, impartiality, confidentiality, transparency, and integrity of the voting process.

II. POLICY

The Board shall not take a position of support or opposition for any individual candidate for a Board election. Board members are prohibited from using Cooperative resources to send communications regarding the election and may not use Cooperative resources to send individual newsletters, as set forth in § 40-9.5-111(4), C.R.S.

Resources of the Cooperative, including the Cooperative’s logo, trademarks, and graphic standards, shall not be used to support or oppose a candidate for election. For purposes of this paragraph, the term “resources” means any items owned or maintained by the Cooperative, such as Cooperative email addresses, electronic devices, printing, postage, mailing, employee time, or other monetary expenditures of the Cooperative. The term “resources” shall not include the membership list provided to bona fide candidates running for director at the next annual meeting pursuant to § 40-9.5-110(1)(b), C.R.S.

Each Member of the Cooperative shall be entitled to one vote upon each matter submitted to a vote at any meeting of the Members. At all meetings of the Members at which a quorum is present, all questions validly presented at the meeting shall be decided by a vote of a majority of the Members voting in person; except as otherwise provided by law, the Articles of Incorporation, or Bylaws.

A. Election Supervision

1. The Board shall, when practicable, appoint an independent third party (such as a Certified Public Accounting firm, professional electioneering firm, or other designee) to receive, prepare, and secure the return envelopes containing ballots, and at the appropriate time, tabulate ballots and report voting results to the Members.

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2. In the absence of an independent third party, the Board will appoint a teller committee consisting of at least six members based upon their election experience, geographical representation from the Cooperative's service territory, and willingness and ability to serve openly, fairly, and impartially. The teller committee shall monitor the election procedure in accordance with this policy and ensure integrity of the election. The teller committee shall elect a head teller to ensure the teller committee performs its purpose and to provide a verifiable record of the election.
3. The Board shall also appoint an Election Supervisory Committee consisting of a member from each of the Cooperative's Director Districts.
 - a. To be a member of the Election Supervisory Committee the individual shall be a member of the Cooperative in good standing, shall be fair, impartial, and have some experience in the general process of elections.
 - b. Nominations for the Election Supervisory Committee shall be made to the Board by the current directors from the respective Director District. The Board shall appoint the members of the Election Supervisory Committee to serve for one annual term, with no limit to the number of terms served. Such appointment shall be made no later than two months before the Annual Meeting after receiving nominations four months before the Annual Meeting.
 - c. The Election Supervisory Committee shall be advised by the Cooperative Attorney.

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- d. The Committee's responsibilities are to resolve: all issues or questions that may arise with respect to the election and voting process, the validity of Members' signatures on nominating petitions and return envelopes, the registration of Members, the tabulation of ballots, and any challenges to the election and voting process. At least three members of the Election Supervisory Committee are necessary to make the decision to resolve an issue or question. If the Election Supervisory Committee's decision ends in a tie, the Cooperative Attorney is authorized to cast the deciding vote. The Election Supervisory Committee shall follow the guidelines as presented in the attached Exhibit 1 in carrying out its duties.
- e. The Election Supervisory Committee members shall be reimbursed for actual expenses incurred, such as mileage at the standard IRS rate, plus a per diem rate equal to the per diem rate paid to the Board for attending meetings.

B. Nomination, election, and voting requirements

Elections for members of the Board will be held at the Annual Meeting of the Cooperative. The date, time, and location for the Annual Meeting will be posted on the Cooperative's website no less than six months prior to the meeting.

- 1. Any Member in good standing of the Cooperative, meeting the qualifications of Article III, Section 2, of the Cooperative Bylaws, is eligible to submit a nominating petition to become a candidate for the Board. Nominating petitions must be signed by at least 15 qualified members of the Cooperative and submitted to the Board no later than 60 days prior to the election.
- 2. No candidate may solicit for signatures on Cooperative property or use Cooperative resources in campaign efforts, other than obtaining a list of members from the Cooperative in accordance with applicable policy and state statute.

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3. Candidates for the Board must sign an affidavit verifying his/her qualifications to run. The Election Supervisory Committee may use electric billing information from the Cooperative, voter registration information from the state of Colorado, and other information as needed to verify that candidates meet the requirements to run.
4. Ballots shall be mailed to all Members of the Cooperative at their billing address, except for Members who reside in a District in which an election has been cancelled, approximately 30 days prior to the Annual Meeting.
5. All mail ballots shall contain a return envelope which must be signed by the Member. Return envelopes must include a privacy sleeve or inner envelope, if required, to conceal the markings on the ballot. The absence of a privacy sleeve or inner envelope shall not invalidate a ballot, and unless the ballot is invalid for some other reason as may be set forth herein, it shall nonetheless be counted. Members who vote by mail are not allowed to vote at the Annual Meeting.
6. The deadline for mailing ballots shall be posted on the Cooperative's website at least three months prior to the deadline. Information on how to become a candidate and the schedule of elections shall be mailed to each Member and posted on the Cooperative's website no less than two months prior to the election.
7. The ballot position of a qualified Director candidate will be determined on a random basis prior to the publication of the ballot by the Election Supervisory Committee.
8. If an election is held within that district, the packet that is mailed to Members with the ballot shall contain voting instructions and biographical information about each qualified Director Candidate. Candidates, even if unopposed, will be identified by name, district, and length of Membership. A candidate, even if unopposed, may submit up to a 250-word summary of their qualifications and views for inclusion in the "Notice of Annual Meeting." In the event a candidate submits more than 250 words, the statement will be truncated. The Cooperative will not make any other edits to the statement.

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9. A Member may request a replacement ballot. The Member will be advised that they may vote in person at the Annual Meeting. Should that be unsatisfactory, a replacement ballot packet will be reissued to the Member. Should the Cooperative receive more than one ballot from any one Member, any subsequent ballot after the first ballot received from said Member will be declared invalid.
 - a. The Cooperative will endeavor to contact the Member in question, when multiple ballots are received from a Member, by contacting the Member at the address or phone number on file with the Cooperative. Nothing in this paragraph shall alter the counting of the first ballot received by the Member and the invalidating of the second ballot received, and the purpose of this paragraph is solely to provide the Member with information regarding the effect of submitting multiple ballots.
10. If an independent third party is utilized, that party will receive the return envelopes and maintain care, custody, and control of the return envelopes until the tabulation process is completed.

III. VOTING/NOMINATING PETITION QUALIFICATIONS

- A. Only Members of the Cooperative may sign a nominating petition. Only Members of the Cooperative may vote at regular and special meetings of Members.
- B. Specific Membership types and acceptable signatures for each include, but are not necessarily limited to, the following:
 1. Individual Membership - The Member of record's signature. In the case of a joint Membership, one signature from any joint Member is acceptable on a return envelope, and one signature is acceptable on a nominating petition.
 2. Corporate Membership - The signature of an officer or assistant officer of the corporation such as President, Vice-President, Secretary, or Treasurer.

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3. Unincorporated Entity Membership - The signature of an authorized representative. The Cooperative may request additional documentation to evidence the appointment of an authorized representative to sign the ballot or nominating petition.

C. The Election Supervisory Committee will determine signature and Membership validity if challenged, including, but not limited to, clear evidence of a signature by someone other than the Member. Unsigned return envelopes will invalidate any ballot contained therein and will remain unopened. The independent third party or teller committee shall have the unsigned envelopes/ballots available for Member signature at the Annual Meeting prior to the close of voting.

IV. **BALLOT PROCEDURES**

For each election a printed ballot and a privacy sleeve, if required, for the concealing of such ballot by each Member who votes, together with a return envelope containing a signature line by the voting Member shall be mailed to each Member. Each Member shall be instructed that, if the Member wishes to vote, the ballot shall be marked in accordance with instructions to be placed on each ballot, such ballot may then be placed in the privacy sleeve/inner envelope, and the privacy sleeve/inner envelope containing the ballot shall then be mailed in the return envelope, which must be signed by the Member. Return envelopes not ultimately signed by a Member shall not be counted. Return envelopes containing more than one ballot (i.e.: two or more Members returning ballots in a single envelope) shall not be counted. Instructions regarding the signing and return of ballots shall clearly be marked on the return envelope. The process of receiving, preparing, and securing the return envelopes will be in the care, custody, and control of the selected independent third party or teller committee, under the supervision of the Election Supervisory Committee.

A. If an independent third party is utilized, return envelopes shall be addressed to the independent third party selected. The independent third party shall keep the return envelopes unopened and secure until the tabulation process begins at the designated time and location prior to the start of the Annual Meeting of Members. If the teller committee is utilized, then the return envelopes shall be addressed to the Cooperative. The Cooperative shall keep the return envelopes unopened and secured until the tabulation process begins at the designated time and location prior to the start of the Annual Meeting of Members.

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- B. The return envelopes list the Member's name, address, voting district, and membership number, as generated from the Membership records of the Cooperative. The envelopes shall have a signature block for the Member's signature, printed name, and title. Other appropriate information and directions will also be provided. Any ballots delivered to the Cooperative in person or by mail shall be delivered by secure means to the independent third party or teller committee prior to the Annual Meeting.

- C. Ballots shall be maintained in the following manner: 1) maintain an accounting of the number of returned envelopes by Director District; and 2) sort the envelopes into groups after comparing the Member label to the signature block. The groups include: i) envelopes signed by the member, officer, or authorized representative; ii) envelopes unsigned; and iii) envelopes to be reviewed by the Election Supervisory Committee for their determination of validity.

- D. The Cooperative shall report, at least weekly, the gross tally of returned envelopes on the Cooperative's website. Said tally shall be the only information released by the Cooperative, the Election Supervisory Committee, the independent third party, or the teller committee if an independent third party is not utilized, regarding the number of envelopes. Prior to the conclusion of the election, no information shall be released regarding information on the number of ballots returned by district or the names of members who have or have not returned envelopes, except for exchanging such information as may be necessary for the Cooperative and the independent third party, or the teller committee if an independent third party is not utilized, to determine if a member should receive a duplicate ballot.

- E. The independent third party, or the teller committee if an independent third party is not utilized, will maintain custody and control of all ballots cast, supervise tabulation of the mail-in ballots prior to the start of the Annual Meeting, supervise the in-person voting process, and supervise the transport and be in control of all ballots cast in person to a secure site for tabulation. The Election Supervisory Committee shall supervise either the independent third party or the teller committee in this process.

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V. REGISTRATION

Registration of Members at the Annual Meeting of Members will determine the presence of a quorum and, if required, to verify Membership for voting purposes. The registration process shall be handled by Cooperative staff, employees, and volunteers prior to the start of the business portion of the meeting.

- A. In person balloting will be available to Members prior to the close of voting at the Annual Meeting of Members. The Notice of Annual Meeting of Members shall specify the hours of balloting and the specific time when balloting will cease. In person balloting is not allowed for Members who have voted by mail prior to the Annual Meeting.
- B. No person shall be allowed to electioneer, photograph, videotape, or tape record any voting activity in the registration and voting area while an election is in progress. Such area shall include that portion of the interior of the building that is readily visible from where registration and voting is taking place.

VI. TABULATION

- A. The independent third party may begin tabulation of mail-in ballots within a reasonable agreed upon time before the Annual Meeting of Members. Once balloting has been closed at the Annual Meeting of Members, any ballots cast in person shall be transferred to a secure site to begin the remainder of the ballot counting process. If the independent party is not utilized, the teller committee, once balloting has been closed, shall supervise the transport and be in control of all ballots and any ballots cast in person to a secure site to begin the ballot counting process.
- B. The independent third party shall develop its own methods of counting, cross-checking, recording, and reporting the result. Handling questionable or irregular ballots will be determined immediately by the Election Supervisory Committee, in consultation with the independent third party's representative. If an independent third party is not utilized, the teller committee will supervise Cooperative employees in the opening of the return envelopes, removal and opening of the privacy sleeve, the removal of ballots, and the counting of ballots.

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- C. A qualified Director candidate, or a representative appointed by the candidate in writing, may observe the tabulation process. Observing the tabulation process shall not include obtaining a tally of votes cast before the final vote is announced at the Annual Meeting of Members. Questions or concerns, raised by the candidate, regarding the registration and/or voting process should be directed immediately to the Election Supervisory Committee for its immediate review and determination.

- D. The independent third party, or the teller committee if an independent third party is not utilized, will automatically recount all ballots appropriate to that Director District position or particular question if the difference between the highest number of votes cast for that Director District position or that particular question and the next highest number of votes cast is less than or equal to one-half of one percent of the highest vote cast in that particular Director election district or that particular question.

- E. In the event of a tie vote in a Director election, the outcome of the election shall be decided by the flip of a coin conducted by the President of the Board (or if the election involves the President, the Vice President) in the presence of the Board and the candidates. In the event of a tie on any other issue other than an election of directors, the issue shall fail.

- F. The independent third party's representative or the head teller, as is appropriate, will certify the results of the election and provide written certification to the President of the Board on behalf of the Board as soon as the results are available. In the event of a recount, the uncertified results will be released at the time of the regular election. The certified results will be released when the recount is finalized.

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- G. In the event of a withdrawal of a Director candidate prior to the certification of the election results from a voluntary withdrawal, ineligibility, or death of the candidate, the opposition candidate Director receiving the most votes shall be deemed to win the election. If the withdrawal occurs at the time of a recount involving the withdrawing candidate, the recount process shall immediately cease.
- H. All return envelopes, ballots, and any materials used in conducting the count shall be preserved and turned over to the Cooperative for safekeeping after the challenge period and any challenges have been resolved. These envelopes, ballots, and materials will be preserved by the Cooperative for a period of not less than 90 days, after which, they may be destroyed.

VII. CHALLENGES

Any qualified Director candidate may challenge the correctness of any announced result of a Director election in which he/she was a candidate. Should a challenge be presented it shall be made in writing, specifically asking for a recount, addressed to the Election Supervisory Committee, and presented within ten calendar days from the announcement of the official results. The Election Supervisory Committee will authorize one recount at the requesting candidate's expense; to be performed in the same manner as, and by the same independent third party or teller committee, that performed the original vote count.

VIII. DISPUTE RESOLUTION

The Election Supervisory Committee shall have the authority to rule on all questions that may arise with respect to the validity of nominating petitions, validity of Member signatures, the registration of Members, counting of ballots cast in any election, determination of the validity of any ballot irregularly marked or cast, rulings upon all other questions that may arise relating to the ballot by mail process, Member voting and the election of Directors, and decisions upon any challenge, protest, or objection made with respect to any election or conduct that may affect the results of any election. Unless the Board determines by a three-fourths vote of the disinterested Directors to the contrary, the Election Supervisory Committee's decision on all such matters shall be final.

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IX. LEGAL AUTHORITY

This policy is intended to comport with § 40-9.5-109.5 and 40-9.5-110, C.R.S., as amended, and the statute shall control over any inconsistent term herein. In the event any clause or provision of this policy shall be adjudged to be invalid or void, or determined to be in conflict with the Cooperative's Articles of Incorporation, Bylaws, existing laws, rules and regulations of the United States of America, State of Colorado, or any governing body having jurisdiction over the Cooperative, then and in that event, such laws, rules, and regulations shall take precedence over the particular guideline and the fact that any such clause or provision may be invalid or void shall not serve to invalidate the remaining guidelines, clauses, and provisions contained herein.

X. RESPONSIBILITY

It shall be the responsibility of the Board and the so appointed Election Supervisory Committee to carry out the terms of this policy.

10/21/20

Date

Secretary