

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 20-10

May 16, 2023

TO: All Regional Directors, Officers-In-Charge,
and Resident Officers

FROM: Jennifer A. Abruzzo, General Counsel

RE: Suggested Manual Election Protocols

On July 6, 2020, the NLRB's General Counsel at the time issued a memorandum with suggested manual election protocols for use during the COVID-19 pandemic. Recently, we have seen the end of the U.S. national emergency regarding COVID-19, the federal COVID-19 public health emergency declaration, and the global health emergency, as determined by the World Health Organization.

Thus, I am revising the July 6, 2020, GC 20-10, Suggested Manual Election Protocols, which is incorporated into one of the factors in the Board's test for determining the propriety of mail-ballot elections in its decisions in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020) and *Starbucks Corp*, 371 NLRB No. 154 (2022) as follows:

The Regional Directors have authority delegated by the Board to make initial decisions about when, how, and in what manner all elections are conducted. They have made, and will continue to make, these decisions on a case-by-case basis, considering numerous variables, including, but not limited to, the safety of Board Agents and participants when conducting the election, the size of the proposed bargaining unit, the location of the election, the staff required to operate the election, and the environment in the election locality. We recognize that the Board has the ultimate authority to make decisions on when, how and in what manner elections are conducted, whether on review of Regional Director decisions or through other guidance or rules.

SUGGESTED MANUAL ELECTION PROTOCOLS

1. Individuals should not participate in-person in a manual election (including other in-person meetings related to the election) if they have COVID-19, fever or chills, or if they have other new or unexplained symptoms consistent with COVID-19, such as: new or unexplained onset of cough, shortness of breath, or difficulty breathing; new or unexplained loss of taste or smell; or new or unexplained muscle aches.
2. If an individual who participated in a manual election develops symptoms or tests positive for COVID-19 within 10 days after the election or an in-person

- meeting related to the election, they must promptly notify the Board agent assigned to the case.
3. If the CDC¹ or a state or a locality determines that a mask requirement is necessary in the location in which a manual election is to be held, all individuals must wear a well-fitting, high-quality face mask (N-95, KN-95, N-94, surgical mask, or similar). If masks are required, and the Region or Employer has an adequate supply of N-95 or equivalent masks available, they are strongly encouraged to offer them for use by all election participants. Individuals participating in manual elections in other locations may wear a mask at their choosing.
 4. Individuals participating in manual elections are encouraged to maintain reasonable physical distance and avoid overcrowding.
 5. Individuals will be encouraged to use hand sanitizer, where available.

As always, the decisions on election procedures and the safety of all participating in an election remain in the sound discretion of the Regional Director.

/s/
J.A.A.

¹ The CDC recently stopped tracking COVID-19 community levels.