

INTERNATIONAL UNION OF OPERATING ENGINEERS



Official By Laws

**Upstate New York Operating Engineers
Local Unions: 158-158C-158S-158RA**

Effective January 1, 2011

*Updated 1/13/20
Amended 1/25/22*

By-Laws
Local Union No. 158

UPSTATE NEW YORK OPERATING ENGINEERS
LOCAL UNION NO. 158 OFFICERS

HEADQUARTERS
27 Hannay Lane
Glenmont, NY 12077
Tel (518) 431-0600

*(Offices denominated by * constitute the Executive Board)*

| | |
|--------------------------------|---------------------------|
| *BUSINESS MANAGER - | Daniel J. McGraw |
| *PRESIDENT - | Thomas Schweizer |
| *VICE PRESIDENT - | John Tarasuk |
| *REC. /COR. SECRETARY - | Terry Hogle |
| *FIN. SECRETARY - | William Walsh |
| *TREASURER - | Karl Button |
| | |
| *DISTRICT 106 – | Christopher Manus |
| | Robert Aikens |
| *DISTRICT 545 – | Thomas Halstead |
| | Donald A. Smith |
| *DISTRICT 832 – | Jonathan Lanse |
| | Grant Malone |
| GUARD - | Steven Payne |
| CONDUCTOR - | Jude Dougherty |
| TRUSTEE - | William Gray |
| TRUSTEE - | Lee Armstrong |
| TRUSTEE- | Kenneth Keirn |
| AUDITOR - | Raymond May |
| AUDITOR - | Charles Swartfager |
| AUDITOR - | Andrew Springer |

(Updated 1/13/20)

INDEX

| | | |
|-------|---------------------------------------|----|
| | IUOE Upstate New York Local Union 158 | 4 |
| | Bylaws | |
| I | Name | 4 |
| II | Jurisdiction | 4 |
| III | District Form of Government | 5 |
| IV | Meetings | 6 |
| V | Officers and Executive Board | 7 |
| VI | Business Manager | 8 |
| VII | Eligibility for Office | 9 |
| VIII | Nominations and Elections of Officers | 10 |
| IX | Convention Delegates | 11 |
| X | Offices | 11 |
| XI | Employment and Compensation | 11 |
| XII | Initiation Fees and Dues | 12 |
| XIII | Application for Membership | 13 |
| XIV | Membership Transfers | 14 |
| XV | Public Sector | 14 |
| XVI | Bylaws Amendments | 15 |
| XVII | Bonding | 16 |
| XVIII | Duties of Members | 16 |
| XIX | Quorum and Rules of Order | 19 |
| XX | Annual Audits | 21 |
| XXI | Gender | 22 |
| XXII | Savings Clause | 22 |

I.U.O.E.
Upstate New York Local Union 158
Bylaws

Recognizing the long heritage of the three Local Unions historically headquartered in Albany, Syracuse and Rochester; acknowledging the changed economic circumstances that challenge workers, both organized and unorganized, across the Empire State; and desiring to join together to solidify and perfect a more useful and beneficial union and to promote the welfare of our membership without regard to race, color, religion, sex or national origin, the Upstate New York Local Union 158 hereby adopts the following bylaws to effectuate its governance, objects, purposes, and principles and to comply with the I.U.O.E. Code of Ethics.

Article I

Name

This Local Union shall be known as the International Union of Operating Engineers Upstate New York Local Union 158 and its Branch Charters 158C, 158S and 158RA. This Local Union has been created by the merger of Local Union Nos. 106, 545, and 832, including each of their branch charters, and shall be governed by these bylaws and the Constitution of the International Union.

Article II

Jurisdiction

The Upstate New York Local Union 158 shall be a mixed Local Union with all of the geographic and craft jurisdiction possessed by the three predecessor Local

Unions on the date of the merger, as well as such other jurisdiction as the General President subsequently chooses to assign to it pursuant to the provisions of the International Constitution.

Article III

District Form of Government

Section 1. The Local shall operate under the district form of government. There will be three districts: District 106, consisting of the geographic area covered by the former Local 106; District 545, consisting of the geographic area covered by the former Local 545; and District 832, consisting of the geographic area covered by the former Local 832. Based upon needs and circumstances and to conform to specific local conditions, the Business Manager, subject to the subsequent approval of the Executive Board, shall have the authority to change and re-designate the boundary lines of the districts. For all purposes for which district membership is relevant, such as the election of district representatives to the Local Executive Board, members will be assigned to the district in which they reside. Members who live outside the geographic jurisdiction of the Local Union will be assigned to the district closest to their residence.

The district meetings shall be presided over by the President, or Business Manager, or a member whom the Business Manager may designate, and it shall be their duty to see that an accurate set of minutes is kept.

Section 2. Adoption and Division- for efficiency of operation and in order to more fully serve the members of this organization, the district form of government, as

provided for in the International Constitution, is hereby adopted and the territorial jurisdiction shall be divided into three (3) districts as follows:

- A. District 106 – The Counties of Franklin, Clinton, Essex, Hamilton, Warren, Washington, Fulton, Saratoga, Montgomery, Schenectady, Rensselaer, Albany, Schoharie, Otsego, Greene, Columbia, Dutchess, Chenango, Broome, Tioga, (Eastern part of Herkimer).
- B. District 545 – The Counties of St. Lawrence, Jefferson, Lewis, Oswego, (Western Part of Herkimer), Oneida, Madison, Cortland, Tompkins, Seneca, Cayuga, Onondaga.
- C. District 832 – The Counties of Allegany, Chemung, Livingston, Monroe, Ontario, Schuyler, Steuben, Wayne, Yates and the Eastern part of Genesee (including the City of Batavia).

Article IV

Meetings

The Local shall have semiannual general membership meetings to be held in the months of January and July, with adequate notice to the membership of the date, time and location of the meetings. There will be quarterly district meetings in each of the three districts in the months of December, March, June and September with no district meetings to be held in the months of January and July. The business to be conducted at district meetings will be limited to those subjects described in Article XXVI, Section 1(c) of the International Constitution, with the further limitations

that bylaws amendments will not be voted at district meetings; voting on bylaw amendments will be accomplished as hereinafter provided in Article XVI of these bylaws.

Article V

Officers and Executive Board

Section 1. The officers of the Local shall consist of a Business Manager, President, Vice President, Recording-Corresponding Secretary, Financial Secretary, Treasurer, three Trustees, three Auditors, Conductor and Guard, as well as six district representatives, with two District Representatives elected from each of the three districts. The term of all offices shall be three years.

Section 2. The Local's Executive Board shall consist of the following officers: Business Manager, President, Vice President, Recording-Corresponding Secretary, Financial Secretary, Treasurer and all District Representatives. The Executive Board shall have centrally located regular monthly meetings, and shall additionally meet upon the call of the Business Manager when necessary. The Executive Board shall have the authority as described in Article XXIV, Subdivision 1, Section (d) and Article XXVI, Section 1(d) of the International Constitution.

Section 3. All powers vested in the Executive Board when in session shall pass to and be vested in the Business Manager when the Executive Board is not in session. All acts and decisions of the Business Manager shall be reviewable by the Executive Board but shall continue in full force and effect until revoked by action of the same at

the next subsequent meeting of the Executive Board following the action in question.

Article VI

Business Manager

It shall be the duty of the Business Manager to direct and conduct all of the business and affairs of this Local Union and its subdivisions; to secure and achieve the objects, purposes and principles of said Local Union in accordance with the best interests of the membership; to direct the negotiation of all agreements with an employer and to enforce such agreements fully through his staff; to appoint all business representatives and other employees who shall be directly responsible to him with salaries, expenses, allowances and fringe benefits to be determined pursuant to Article XI; and have full power to lay off or terminate the employment of such employees; to employ such legal counsel, certified public accountants and other technical or professional personnel as he may deem necessary or advisable; to appoint or remove delegates to various organizations to which the Local Union is entitled to send delegates, unless otherwise prohibited by law and/or the International Constitution; to appoint trustees of all trusts, which trust agreement authorizes the Local Union to name or appoint trustees; to initiate legal or administrative proceedings, actions or suits and to defend the Local Union, its officials, Local Union Executive Board and its members, Advisory Board and its members, Job Stewards, business representatives and employees, in any legal or administrative proceedings, actions or suits which in his judgment may be necessary and proper to protect, preserve, secure or advance the principles and purposes of this Local Union; to compromise and settle any legal or administrative

proceedings, actions or suits hereinabove referred to, including the payment of funds as part of such compromise, judgment or decree; to attend all regular semiannual meetings of the Local Union unless physically incapacitated, and such district meetings as he is able to attend; to serve as a delegate to all conventions, including state, non-state and professional organizations to which the Local Union is entitled to send delegates and shall be a delegate to any International Convention held during his term of office; to serve as a member of all Board of Trustees on which the Local Unions are entitled to representation; to incur such expenses as may be necessary, proper or advisable in the carrying out his duties; to cause all salaries and other current expenses to be paid; to perform all actions authorized herein, or which from time to time may be delegated to him along with those normally incident to said office which he deems necessary, advisable or proper for the protection of this Local Union and for the benefit of this Local Union and its members; to consult with the officers of the Local Union and the members of the Local Union Executive Board when necessary or advisable; and he may in all instances act directly or through a deputy appointed by him.

Article VII

Eligibility for Office

The candidate eligibility requirements for the offices described in the preceding articles shall be as described in Article XXIV of the International Constitution, with the requirement that no members employed in a supervisory capacity other than as a master mechanic, foreman engineer or superintendent of equipment may be eligible to run for or be elected to serve in any capacity as an officer in the

Upstate New York Local or any of its branch charters. Additionally, in order to be eligible to run for the office of district representative, candidates must have resided in their respective district for one year prior to the month of nominations.

Article VIII

Nominations and Elections of Officers

Nominations of officers shall be made at the July semiannual meeting, with the first such nomination to take place in July 2013. The election shall be conducted by mail ballot sent to the members during the month of August. All members who are current in their dues through the month of July at the time the ballots are mailed shall be entitled to be mailed a ballot. The election shall be conducted under the oversight of a three person Election Committee, appointed by the Business Manager, with one person to be appointed from each district. In order to be eligible to be appointed to the Election Committee, individuals must commit to strict non-partisanship during the conduct of the election. The Election Committee shall have the authority to retain an outside firm, such as a certified public accounting firm, to handle the administrative details of the election under its supervision. The installation of officers shall be at the September District meeting. Any protest of the conduct of the election, filed in compliance with the provisions of Article XXIV, Subdivision 1, Section (g) of the International Constitution, shall be referred initially to the Election Committee for its investigation and report to the Local Executive Board; the Executive Board shall make the Local's final determination on such protest.

Article IX

Convention Delegates

By virtue of the election to their offices, the Business Manger, President, Recording-Corresponding Secretary and Financial Secretary shall be delegates to the General Convention of the International Union. Such additional delegates to the General Convention as the Local is entitled to pursuant to the provisions of the International Constitution shall be elected at the January semiannual meeting in the year of the Convention, with nominations to take place at the district meetings in the preceding December, with adequate notices to the members of the time, date and place of the nomination and election meetings. Delegates to the state AFL-CIO Convention, the Northeast and New York Conferences of the IUOE, and any similar conferences are representatives of the Local Union and, as such, shall be appointed by the Business Manager, with due consideration given to having delegations representative of the Local's three districts.

Article X

Offices

The Local shall maintain an office in District 106, District 545 and in District 832.

Article XI

Employment and Compensation

The Business Manger shall appoint all representatives, agents and assistants employed by the Local Union and they shall work under his direct supervision. The salary, expenses, allowances, fringe benefits, and employment

policies, including sick leave and vacation, for all Local Union employees other than the Business Manger shall be proposed by the Business Manager subject to the approval of the Executive Board; the Business Manager shall be covered by the same fringe benefits and employment polices as other Local Union employees and his salary, expenses, and allowances shall be set by the Executive Board.

Article XII
Initiation Fees and Dues

Section 1. Periodic dues and assessments will be set by vote of the membership.

Section 2. Initiation Fees shall be:

| | |
|--------------|----------|
| Local 158 | \$425.00 |
| Local 158 C | \$275.00 |
| Local 158 S | \$275.00 |
| Local 158 RA | \$100.00 |

Members of this Local Union in continuous good standing in the International Union of Operating Engineers for a period of forty (40) years will, upon retirement from gainful employment as an Operating Engineer, be exempt from the payment of dues and assessments upon application to and approval of the Executive Board.

Active military service in the armed forces of the U.S.A., in times of National Emergency shall not serve to detract from

a member's eligibility of forty (40) years dues exempt status.

Article XIII

Application for Membership

Section 1. Every application for membership shall be made upon an official application form furnished by Local 158. Each application shall be fully executed and all rules, etc. shall be determined by the Executive Board and/or Examining Committee.

Section 2. Every applicant may appear before the Executive Board or Examining Committee appointed by the President and such applicant shall be examined as to his or her qualifications. Such examination, if required, may be written, practical or both. Any applicant may be subject to drug testing. This section may be waived for organizational purposes.

Section 3. Any applicant for membership making a misrepresentation or false statement in his application shall be denied membership.

Section 4. Any member belonging to more than one (1) local union of this International Union may after trial and conviction thereof, be expelled from this local union.

Section 5. An applicant for membership into Local 158 or its Branch Charters shall present with his application form, the initial payment of no less than Fifty Dollars (\$50.00).

Section 6. Any applicant making application in Local 158, or its Branch Charters, International Union of Operating

Engineers, must have his or her signature on his or her application notarized before being accepted by the Examining Committee or Executive Board.

Article XIV

Membership Transfers

Members wanting to transfer from one charter to another must apply in writing to the office one (1) month in advance. Members' records will be checked and placed before the Examining Committee or the Executive Board.

Article XV

Public Sector

Section 1. This Article shall apply to all public sector employees represented by the Upstate New York Local, other provisions of these bylaws notwithstanding.

Section 2. These bylaws shall be interpreted with respect to public sector employees represented by the Upstate New York Local in such a manner as may be necessary to maintain the status of the Upstate New York Local as an "employee organization" as that term is defined under the applicable New York State laws (including those commonly known as the "Taylor Law"), such that the Upstate New York Local may represent public employees.

Section 3. Stewards of the Upstate New York Local for public sector bargaining units shall be elected exclusively by the members of the bargaining unit which each steward represents. Once such election has been made, the chosen steward shall be appointed by the appropriate business representative of the Upstate New York Local Union, and

such appointment shall be approved by the Business Manager of the Upstate New York Local.

Section 4. Negotiations of collective bargaining agreements or modifications thereto affecting a public-sector bargaining unit shall be conducted by a committee comprised exclusively of the individuals selected by the affected bargaining unit. No bargaining representative shall be a member of such committee except at the specific request of the members of the affected bargaining unit.

Section 5. Ratification of collective bargaining agreements or modifications thereto affecting a public-sector bargaining unit shall be exclusively by vote of the affected bargaining unit. The Executive Board of the Upstate New York Local, and the Local's staff, business representatives and Business Manager shall not vote in ratification of such collective bargaining agreements or modifications thereto.

Section 6. The Business Manager of the Upstate New York Local and/or any public-sector bargaining unit may establish procedures to assure that public employees represented by the Local have independence in collective negotiations to the extent such independence is not currently existing in practice or created by these bylaws.

Article XVI

Bylaws Amendments

These bylaws may be amended by a majority vote of the members by secret ballot, providing such amendment has been presented to the Local Union Executive Board and due notice given the members. All such amendments shall be approved by the General President.

Article XVII

Bonding

It shall be the responsibility of the Business Manger to see that all persons who handle funds or other property of the Local Union shall be bonded for the faithful discharge of their duties in such amount and as otherwise required by applicable law. The expense of such bond shall be paid by the Local Union.

Article XVIII

Duties of Members

Section 1. In addition to the duties required by the Constitution and Ritual, every member will be required to conform to and abide by the hours, wages and conditions of employment provided for in the collective bargaining agreements signed with the local union. Any member found guilty of entering into an individual or personal contract or agreement with his or her employer, which serves to lower the wages, hours or conditions of employment established by this local union will be subject to disciplinary action in accordance with the provision of Article XXIV, Subdivision 3, of the International Constitution.

Section 2. No member shall engage in conduct discrediting this organization or the International Union nor shall a member commit any of the following acts:

- (a) Working or reporting for work under the influence of alcohol or illegal drugs.
- (b) Willfully damaging machinery or equipment.

- (c) Leaving the job without giving due notification to the employer and union.
- (d) Leaving equipment while in operation during working hours, without being properly relieved.
- (e) Refusing to comply with lawful orders of Business Representatives or officers of Local Union 158 or its Branch Charters.
- (f) Refusing to show dues book or receipts when requested to do so by the Business Representative, Shop Steward or any member.
- (g) Failure to keep the local union office properly notified as to correct addresses and telephone numbers, and current employment status.
- (h) Failing to report to Local 158 concerning the employment of non-members or members in bad standing on the job.
- (i) Misrepresenting his qualifications and ability to perform a job.
- (j) Infringing upon the right of another member to work the overtime on the machine he or she is regularly employed to operate.
- (k) Aiding a foremen or employer in using unfair methods in dealing with other union members.
- (l) Working on a job where a legal strike is called or refusing to come off when notified by the authorized representative or officer of Local 158.
- (m) Willfully engages in slander or libel where such slander or libel is contrary to the responsibility of

every member toward the organization as an institution or specifically interferes with the organization's performance of its legal or contractual obligations.

- (n) Members failing to make just claims for shortages in wages and overtime within three (3) weeks after receipt of such pay shall be deemed to have waived such claim.
- (o) There shall be no seniority except as regards to the particular machine the member is operating, or when working under an agreement that includes a seniority clause.
- (p) Failure to report for work without just cause or notification of employer or Union after accepting work.
- (q) No member shall work out of classification (Charter) without Union Hall approval.
- (r) Failure to attend a union orientation class and/or standardized testing when required by the Local Union or its Executive Board.

Section 3. If a Member is in doubt about the application of any of the sections of this Article; he/she should call the Local Union office. Ignorance of these "duties" will not be a valid excuse for any breach or omission. The violation of any of these working rules may be punishable by fine, suspension, or expulsion; as the authority of the Local

Union may direct upon the finding of a verdict of “guilty” after a fair and proper trial pursuant to Article XXIV, Subdivision 7, Sections (L) through (S) of the International Constitution.

Article XIX

Quorum and Rules of Order

Section 1. A quorum for the transaction of business at meetings shall consist of not less than 7 good standing members.

Section 2. At the hour set, the President shall call the meeting to order and preside. In the absence of the President, the Vice-President shall preside. In the absence of both, the Recording-Corresponding Secretary shall call the meeting to order and the membership shall elect a temporary chairperson.

Section 3. No member shall be allowed to leave the meeting while in session except by permission of the President, Vice-President or temporary Chairperson.

Section 4. If any officer absents himself or herself from four (4) consecutive regular meetings of the general membership without a satisfactory excuse, his or her office may be declared vacant in accordance with Article XXIV, Subdivision 1, Section (f) of the International Constitution.

Section 5. No member under the influence of intoxicating liquor or substance abuse shall be admitted to the meeting hall, nor shall any member be permitted the use of the same during a meeting.

Section 6. The President shall have the power to exclude from the meeting any member guilty of indecorous or unruly conduct, and to levy on such member a fine from ten (\$10) to twenty (\$20) dollars for refusing to obey his or her orders.

Section 7. No subjects except such as are strictly in the interests of labor and the welfare of the sick brothers and sisters shall be discussed at any meeting.

Section 8. Appeals from decisions of the Chair shall not be debatable except by the President and the member making such appeal.

Section 9. A motion shall not be subject to debate until it has been recorded and stated by the Chairperson.

Section 10. When a question is before the meeting, no motion shall be in order except the following:

- (a) to adjourn
- (b) to lay on table
- (c) for the previous question
- (d) to postpone
- (e) to refer or recommit
- (f) to amend

The above named motions shall have preference in the order named, the first three of which shall be decided without debate.

Section 11. It shall not be in order for a person who has spoken on a question to move the previous question at the close of his or her remarks.

Section 12. A member having made a motion may withdraw it with the consent of his or her second, but a motion once debated cannot be withdrawn except by unanimous consent of the members present.

Section 13. Before the presiding officer declares the vote on a question any member may ask for a division of the house, in which case the chair is duty bound to comply with such request and call for a standing vote.

Section 14. No member shall speak on any one question longer than ten (10) minutes, nor more than once, until everyone who desires has had an opportunity to speak.

Section 15. No member shall be interrupted while speaking except to be called to order, or for the purpose of explanation or information.

Article XX

Annual Audits

Annual audits shall be made showing the complete financial standing of Local 158 and its branches, its assets, income and disbursements and shall be read to the members, or made available to all members at the Union Headquarters.

Article XXI

Gender

All references to the masculine gender contained in these bylaws shall include the feminine.

Article XXII

Savings Clause

If any provision of these bylaws shall be declared invalid or inoperative by any competent authority of the judicial, legislative or administrative branch of the federal or state government or the International Union, the Local Union Executive Board shall have the authority to suspend the operation of such provision during the period of its invalidity and substitute in its place a provision which shall meet the objections of invalidity and which will be in accord with the intent and purpose of these bylaws. If any article or section of these bylaws shall be held invalid by operation of law or by any tribunal of competent jurisdiction the remainder of these bylaws or the application of such article or section to persons or circumstances other than those as to which it has been held invalid shall not be affected thereby.