

**THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW**

APPEAL OF:

FRANK GOEDDEKE, JR., Retired Member,
UAW LOCAL UNION 653
(Pontiac, Michigan), REGION 1,

Appellant,

-VS-

CASE NO. 1866

INTERNATIONAL EXECUTIVE BOARD
(THE UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA),

Appellee.

DECISION

(Issued July 11, 2023)

PANEL SITTING: Prof. Janice R. Bellace, Chairperson,
Prof. James J. Brudney, Prof. Harry C. Katz
and Prof. Maria L. Ontiveros.

APPEARANCES: Frank Goeddeke on behalf of Appellant; Steve
Zimmerla, James Britton, and Patrick Byers on behalf
of the International Union.

The Public Review Board considers whether the International Executive Board violated Article 12, §19 when its members held off-the-record discussion during several meetings of the Board.

FACTS

Appellant Frank Goeddeke is a retired member of UAW Local Union 653. On March 29, 2020, Goeddeke sent an email to then International President Rory Gamble.¹ Goeddeke requested that Gamble and the other members of the International Executive Board (IEB) pursue Article 31 charges against former International President Dennis

¹ Record, p. 14.

Williams. Goeddeke also expressed skepticism regarding the IEB's vote to install Gamble as Acting President on November 2, 2019. Gamble responded by email that Goeddeke should review the minutes of the subsequent meeting on December 5, 2019, in which Gamble was appointed International President.²

Article 12, §19 of the UAW International Constitution requires that the IEB have verbatim minutes taken at all meetings and gives members the right to inspect these minutes. Section 19 also permits the IEB to conduct informal discussion off the record when 7/8 of the members present vote to do so. Article 12, §19 reads in its entirety:

"Verbatim minutes shall be taken at all meetings of the International Executive Board (except when the Board, by a seven-eighths (7/8) vote of those present, decides that the best interests of the Union would be served by an informal discussion of the membership of the Board in session as a committee of the whole, in which event the Board shall confine itself to discussion but shall take no formal action, and no minutes shall be taken). Such minutes shall be transcribed immediately and copies thereof shall be distributed to all elected officers of the International Union as soon as completed. Such copies shall be made available to any interested member in good standing for inspection at the offices of the International Secretary-Treasurer and of each International Executive Board Member. In addition, the Secretary-Treasurer shall prepare a summary of official International Executive Board action after each International Executive Board Meeting, which shall be sent to each Local Union."

Goeddeke did not immediately seek to review the minutes, preferring to wait until the pandemic was under better control.³ On June 27, 2022 at the Region 1 offices, he finally inspected minutes from the IEB's meeting on December 5, 2019.⁴ On July 15 and July 21, 2022, he inspected the minutes from IEB meetings held on other dates.⁵

By letter dated July 22, 2022, Goeddeke submitted an Ethical Practices Codes complaint to the International President's office.⁶ He explained that the complaint was submitted without the approval of his Local because a membership meeting was not scheduled within the 60-day time limit for initiating his complaint. In subsequent correspondence, Goeddeke requested that his complaint be treated as an appeal under

² Record, p. 14.

³ Record, p. 14. President Donald Trump announced national emergency measures with regard to the COVID pandemic, including severe travel restrictions, on March 11, 2020. <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>. Many offices were closed or had restricted access during the COVID pandemic period.

⁴ Record, p. 14.

⁵ Record, p. 14.

⁶ Record, pp. 13-17.

Article 33 of the International Constitution, if that was the more appropriate course of action.⁷

In his complaint, Goeddeke asserted that the IEB had improperly conducted off-the-record discussion on December 5, 2019 and other dates. He described a portion of the December 5, 2019 meeting as follows:

“It was in the verbatim minutes of December 5, 2019, IEB meeting that Vice-President Estrada made a motion for the UAW to stop paying for former President Gary Jones' legal fees. Region 9A Director Brakemen then asked if it was OK to amend the motion to also stop paying for former President Dennis Williams' legal fees. The IEB then went to an off-the-record discussion. When they returned from the off-the-record discussion there was a voice vote supporting the (original?) motion to stop paying for Jones' legal fees, with no further mention of the amendment put on the table by Director Brakeman.”⁸

Goeddeke contended that there were several problems with this part of the meeting.⁹ He complained that there was no record as to who made and seconded the motion to conduct off-the-record discussion and no record of the roll-call vote which should have been taken. Goeddeke also argued that formal action had been taken during the off-the-record discussion since Brakeman's question (whether considered an amendment to Estrada's motion or a point of order question) was no longer on the table when discussion resumed on the record. Finally, Goeddeke asserted that the decision to go off the record was inappropriate because it was not in the best interest of the Union. The 1959 International Convention voted to add the provision allowing the IEB to conduct off-the-record discussions. During the Convention, then Vice President Leonard Woodcock explained that the amendment was intended to keep information away from “enemies” of the Union.¹⁰ Goeddeke argued that the IEB's decision was inconsistent with this purpose.¹¹

Goeddeke also complained that the IEB had inappropriately conducted off-the-record discussions without record of a roll-call vote on several other occasions and, therefore, had engaged in a pattern of conduct warranting prospective relief regarding the conduct of future IEB meetings.¹² Goeddeke cited the following examples. The earliest occurred on July 15, 1968, when there was a special IEB meeting at which there was off-the-record discussion of the activities of a dissident caucus within the UAW. More recently, during a meeting on February 21, 2017, following a question from then Vice

⁷ Record, p. 27. In some places in the Record, the International Union indicates that it treated Goeddeke's letter as an EPC complaint. Record, pp. 30, 57. However, in other places, the International Union describes the complaint as an appeal under Article 33 of the Constitution. Record, pp. 28, 29, 45. The PRB has docketed the case as an Article 33 appeal.

⁸ Record, p. 14.

⁹ Record, p. 15.

¹⁰ Record, p. 14.

¹¹ Record, p. 15.

¹² Record, p. 16.

President Cindy Estrada regarding maintenance at Black Lake, the IEB held off-the-record discussion. Appellant also cited a meeting on November 2, 2019, during which the IEB conducted off-the-record discussion after then International President Gary Jones asked for paid leave and payment of his legal fees. On June 25, 2021, an entire IEB meeting was held off the record. Goeddeke also pointed to a memo issued by then International President Ray Curry on March 24, 2022, in which he stated that the IEB had discussed the question of whether retirees can run for International offices. According to Goeddeke, the IEB meeting minutes do not reflect any discussion of this topic.

Goeddeke's complaint requested eight forms of relief, as follows:

"1) In future off-the-record discussions in IEB meetings, that the verbatim minutes reflect who makes the motion to hold an off-line-discussion, and who seconds the motion. Additionally, if the vote to hold an off-the-record discussion is not unanimous, the name(s) of the dissenting voter(s) be recorded as well.

2) When the IEB engages in off-the-record discussions, it explicates in the verbatim minutes why this is necessary to discuss off-record and in the best interests of the Union.

3) The IEB limit off-the-record discussions to matters that place the Union at a disadvantage with external enemies of the Union, not internal political rivals, the membership, or federal investigators. Members are not enemies of our Union!

4) All verbatim IEB minutes include page numbers and a professionally-produced index, so members can be assured they have the entire documents when inspecting them.

5) Presentations, appendices, handouts, and other supplemental materials that are discussed at IEB meetings be included as part of the verbatim minutes of the meetings available to members. For example, the IEB adopted a new IEB Travel Policy in February 2017, but the verbatim minutes provided for my inspection did not include a reading or copy of the policy that was adopted.

6) Requests from members to inspect verbatim minutes of IEB meetings be fulfilled in a timely manner, such as 7-14 days.

7) No business be conducted in off-the-record discussions.

8) Whenever there is a quorum of IEB members and union business is discussed, verbatim minutes of these meetings be taken and made available to members.”¹³

The IEB issued its decision on October 27, 2022 denying the appeal. The IEB limited its discussion to Goeddeke’s complaints regarding the meetings on November 2, 2019 and December 5, 2019, finding his complaints concerning other meetings “lack[ing] specificity” and “difficult to discern.”¹⁴ The IEB pointed out that the Constitution imposes the high threshold of a 7/8 vote in order to conduct off-the-record discussion.¹⁵ Once satisfied, however, the IEB found that the only restriction is that IEB members cannot conduct official business.¹⁶

In terms of the reasons to conduct off-the-record discussion, the IEB rejected Goeddeke’s position as too narrow:

“Although Complainant relies heavily on Vice President Woodcock’s explanation that one reason for off-the-record discussions is to shield the Union from ‘enemies,’ there are other, legitimate reasons why the IEB would want to discuss sensitive matters off-the-record.[] The framers of the Constitution decided to allow the IEB to take such off-the-record discussions at its discretion, using its measured judgment to determine if such off-the-record discussion would be in the best interest of the Union.”¹⁷

The IEB explained that one legitimate reason “would involve privileged attorney-client communication concerning litigation or topics [upon which] the IEB is seeking advice from its legal counsel.”¹⁸

The IEB found that Goeddeke had failed to show that the IEB went off the record during the November 2, 2019 or December 5, 2019 meetings for an improper reason.¹⁹ The IEB denied that official business was conducted on either occasion while off the record.²⁰

The IEB also addressed Goeddeke’s requests for relief. In terms of making a record of the vote to conduct informal discussion, the IEB stated:

“On June 9, 2021, UAW Ethics Officer Wilma Liebman made a recommendation to the IEB concerning the manner in which the IEB moves into ‘off-the-record’ discussions under Article 12, Section 19. In particular, Liebman recommended that any such action record as part of the meeting

¹³ Record, pp. 16-17 (footnotes omitted).

¹⁴ Record, p. 31.

¹⁵ Record, p. 32.

¹⁶ Record, p. 33.

¹⁷ Record, p. 33 (footnote omitted).

¹⁸ Record, p. 33.

¹⁹ Record, pp. 33, 34.

²⁰ Record, pp. 33, 34.

minutes the vote of each individual IEB member voting in favor (or opposition) of going into an 'off-the-record' discussion. This recommendation was promptly considered and accepted by the UAW International Union and made a practice of the IEB as of June 10, 2021."²¹

The IEB rejected Goeddeke's request that the meeting minutes state the reason for off-the-record discussion because the Constitution imposes no such requirement.²² The IEB stated that it would endeavor to provide minutes formatted with page numbers and an index but indicated that it would only provide documents reviewed by the IEB if found appropriate following a specific request.²³ In terms of timeliness in responding to requests to review minutes, the IEB stated that it would adhere to its current practice which was largely dependent on the time taken by the court reporter service to prepare the transcript.²⁴

Dissatisfied with the IEB's response to his complaints, Goeddeke initiated this appeal to the Public Review Board (PRB).²⁵ Following its initial consideration of this case, the PRB requested further information from the International Union, including the minutes from the IEB meetings conducted on November 2, 2019 and December 5, 2019. The PRB conducted a hearing on May 26, 2023 in order to better understand the arguments advanced by each side.

ARGUMENT

A. Frank Goeddeke

On July 22, 2022, I appealed to the IEB under Article 33, §3(d) of the Constitution that they were conducting off-the-record discussions improperly. I included multiple attachments and cited several examples. I have read the IEB's response to my complaint and I am not satisfied with it. I would like the PRB to review this matter further.

As I understand it, the IEB's response rests upon four arguments. First, they argue that we should ignore the reason given by Vice President Woodcock for the amendment to allow off-the-record discussions. It is my belief that the delegates and members should have faith in what UAW leaders tell them, especially in official Convention proceedings. Further, the stated reason for the amendment clearly gives us the intent of the Delegates that approved this amendment.

Second, the IEB contends that the requirement for a 7/8 vote is a high threshold which assures the IEB is acting appropriately. However, this amendment has been in effect for 63 years, yet the IEB does not cite as evidence a single instance where a request to hold an off-the-record discussion was voted on and did not meet the 7/8

²¹ Record, p. 34.

²² Record, p. 34.

²³ Record, p. 35.

²⁴ Record, p. 35.

²⁵ Record, pp. 37-39.

threshold. I have read several dozens of verbatim minutes and have never seen this happen (although I did see one request was delayed to the end of the meeting at the request of the President). From what I could see, the policy seems to be (at least until June 10, 2021) that anyone who asks for an off-the-record discussion gets one, *ex ante* or *post hoc*.

Third, the IEB asserts that no official business was conducted during off-the-record discussions. It is extremely difficult for me to provide evidence to refute this, without being present behind closed doors at IEB meetings. However, I provided as an attachment in my original appeal minutes from the July 15, 1968 meeting. Somehow, the off-the-record discussions were recorded and are now available in the Reuther Library at Wayne State University. We can see that not only did the IEB use off-the-record discussion to speak negatively about UAW members (which would not be in the best interests of the Union), but also delegated certain IEB members to take action with respect to these members. So, I have shown that the IEB has used off-the-record discussions inappropriately and conducted business in at least one instance.

I also submit as evidence on appeal the minutes of the May 22, 1970 IEB meeting. During that meeting, International Secretary-Treasurer Emil Mazey obviously conducted votes off-the-record to elect a new President and Vice President. It is widely known and admitted by Douglas Fraser that Woodcock beat Fraser by a 13-12 vote of the IEB, yet the IEB meeting minutes reflect a unanimous vote. I beg the PRB to prevent the IEB from conducting business off-the-record ever again.

Fourth, the IEB contends that its members determine what is in the “best interests of the Union” and this judgment is supreme. I disagree. The IEB is not the highest authority within our Union and is subject to some degree of oversight from various bodies within and external to the UAW, including the PRB. Recent events in the last several years have shown us that the IEB has not always acted in the best interests of the Union in off-the-record discussions. I have cited several examples of that already. These include the failure to discipline then President Gary Jones and former President Dennis Williams, as well as paying \$467,705 for Williams’ legal fees from union dues, even after their criminal actions were widely known. I beg the PRB to exercise whatever oversight it can.

B. International Union, UAW

The Constitution is clear and unambiguous as to the ability of the IEB to hold off-the-record discussion. Pursuant to Article 12, §19, the IEB is authorized to hold informal (or “off-the-record”) discussions when, by a 7/8 vote of those IEB members present, the Board:

“decides that the best interests of the Union are served by an informal discussion of the membership of the Board in session as a committee of the whole, in which event the Board shall confine itself to discussion but shall take no formal action, and no minutes shall be taken.”

There is simply no need to look beyond the plain text. Yet, this does not stop Appellant. In his submission to the PRB, Appellant seeks extraordinary relief from the PRB “to exercise whatever oversight it can” over the IEB. Appellant struggles to reconcile the clear and unambiguous language of Article 12, §19 with his desire to stifle IEB discussion on sensitive matters, which the Board, in its exercise of discretion, determines may not be appropriately placed before the general public.

Appellant references the 1959 Constitutional Convention proceedings where Article 12, §19 was amended to permit off-the-record IEB discussion, both in his July 22, 2022 appeal to the IEB and his November 28, 2022 appeal to the PRB. Upon examination of the 1959 Convention Proceedings, it is clear that the 1959 amendment to Article 12, §19 permitting the IEB to go into off-the-record discussion was based on a desire to maintain as confidential and removed from public view the Board’s discussion on sensitive topics “because such things can be used to our disadvantage by those who are enemies of our Union. *If for example, the Union is engaged in a strike or engaged in considering tactics in collective bargaining, things we need to know, these things need to be talked about on a confidential basis.*” 1959 UAW Constitutional Convention Proceedings, at p.135 (emphasis added).

In his November 28, 2022 appeal, Appellant next makes a generalized argument that the IEB has not been acting in accordance with Article 12, §19 when members go into “informal discussions” or off-the-record. Appellant puts on the UAW a demand to show when the 7/8 threshold was met. The IEB noted in its October 27, 2022 decision that the record is clear there are no violations of Article 12, §19 as relates to prior decisions of the Board to go off-the-record. The IEB noted that the Constitution requires a very high threshold before an off-the-record meeting can be held. Presumably, if two or more IEB members believe that such conversations would not be in the best interest of the Union, a motion to hold off-the-record discussions would fail. After members vote to conduct off-the-record discussion, the only limitation imposed by the Constitution is that no official business be conducted.

The next argument by Appellant is a generalized claim that the IEB is conducting business during off-the-record sessions. Here, the Complainant has provided no evidence that any official business has taken place during any of the off-the-record sessions he has identified. Appellant concedes in his November 2022 appeal that he cannot provide evidence of official business being conducted off-the-record. The IEB has always taken formal action and conducted official business while on the record. There is simply no basis in fact to suggest otherwise.

C. Rebuttal by Frank Goeddeke

It is my belief that for decades the IEB has abused its Constitutional authority to hold discussions off the record. This should be obvious to anyone who has read these verbatim minutes prior to the adoption of the new policy recommended by the UAW Ethics Officer. It stands to reason that if the IEB had not been abusing its rights, the Ethics Officer would not have needed to recommend they adopt a new policy just to follow what

is already in the Constitution. It appears there was text stricken from the record after the fact many times, rather than a vote to go off record and then discuss. The practice was to discuss matters off the record, come to a decision, and then have the vote on record, with everyone voting according to the majority in the off-the-record vote.

A recent example of this is when the IEB decided to keep retirees from running in the recent International officer elections. I was provided no record of the discussion despite my written request, and then President Ray Curry later contacted the IEB members to get their formal vote for what had already been decided off the record. I have provided the letter President Curry sent to the IEB members in my original filing with the PRB.

I also disagree with the IEB's assertion that the verbatim minutes of IEB meetings are considered a "public record." These minutes are not made readily available even to members, much less the general public. In order to inspect the minutes, I need to file a written request. Then, I have to wait several weeks or months. I am currently waiting to have my December 5, 2022 request fulfilled, which is currently 90 days and still counting. Other times, it has taken up to six weeks to get an appointment to inspect the minutes at my Regional headquarters building. I am not even allowed to go to Solidarity House to view the minutes as set forth in the Constitution. Depending on the Region, a member might have to travel several hundred miles to inspect the minutes. At the Regional office, I am taken behind a locked door into a secure area that members do not have access to unless escorted. While reading the minutes, I am watched by UAW security personnel. I am not allowed to make copies or cell phone photographs. If the minutes were a "public record" as the IEB claims, they could be easily put on the UAW's website as soon as received from the court reporter for all members to see.

The delay in being able to read the verbatim meeting minutes was also a significant problem in the context of the recent IEB elections. Throughout the entire run-off election, I was denied my request dated December 5, 2022, to read the August 2022 and November 2022 meeting minutes. This was harmful to the entire membership because there would likely have been information in those meeting minutes that would have been useful to members when making their voting decisions.

The importance to the membership in having access to the verbatim minutes -- where, in the words of Walter Reuther, "you can go anytime you want to find out who did what or said what on what occasion or what action was taken" -- cannot be underestimated. In recent times, members have inspected these minutes to try to find out which IEB members voted for building Cabin #4 at Black Lake, which voted to discipline Gary Jones and Dennis Williams in August 2019, and which voted to give Dennis Williams \$467,705 in lawyer fees. An informed membership in a democratic Union needs ready access to complete verbatim meeting minutes.

DISCUSSION

In 1947, the Delegates to the UAW International Convention added to the Constitution the requirement that verbatim minutes be taken at all IEB meetings and be made available to any member for inspection. The Delegates also added the requirement that a summary of official IEB actions taken at each meeting be prepared and distributed to all locals. The plain intent of this Constitutional provision was to ensure that IEB meetings are conducted in an open and transparent manner. Further, it was intended that all members could be informed about the decisions made by the IEB, which acts as the Union's highest governing body between Conventions.

In 1959, the Convention Delegates adopted an exception to the requirement for verbatim minutes. They inserted a parenthetical phrase into the first sentence of Section 19, such that it now reads:

"Verbatim minutes shall be taken at all meetings of the International Executive Board (except when the Board, by a seven-eighths (7/8) vote of those present, decides that the best interests of the Union would be served by an informal discussion of the membership of the Board in session as a committee of the whole, in which event the Board shall confine itself to discussion but shall take no formal action, and no minutes shall be taken)."

This exception sets forth three requirements which must be satisfied before the IEB may conduct informal discussion off-the-record: (1) a 7/8 vote of IEB members present; (2) a determination that the best interests of the Union are served by off-the-record discussion; and (3) a prohibition on taking formal action while off-the-record. Each of these requirements – the vote, the determination, and the prohibition – should be fulfilled in a manner that is appropriately accessible to the membership. In this appeal, the International Union has taken the position that Section 19 contains only two requirements for off-the-record discussion that are accessible to the membership, namely the 7/8 vote and the prohibition on formal action. This position fails to give due weight to the language regarding the best interests of the Union, which is properly viewed as a requirement that must be satisfied before informal discussion may be conducted.

The PRB has not previously addressed the application of Article 12, §19 in its decisions. This appeal raises important and timely issues, especially in light of the recent focus on the Union's democratic processes. The PRB agrees with Appellant that Article 12, §19 is an essential component of the UAW's democratic structure. Members are entitled to faithful adherence to this important provision.

As a threshold matter, we observe that the language and structure of Article 12, §19 indicate that the framers of the Constitution intended that the IEB engage in off-the-record discussion sparingly. The 7/8 vote requirement is a very high threshold, requiring near unanimity among the IEB members present, far beyond even a usual 2/3 super-majority vote. The requirement that informal discussion be in the "best interests of the Union" is also intended to limit the use of off-the-record discussion. Unless narrowly

applied, the exception created for informal discussion would defeat the essential purpose of the requirement for verbatim minutes of all IEB meetings. The exception was not meant to swallow the rule.

After reviewing the verbatim minutes from several IEB meetings, Appellant argues that the requirements of Article 12, §19 have not been adhered to in the past. He has cited examples where the IEB has gone off-the-record repeatedly in the course of a single meeting, and he complains that the minutes of these meetings do not reflect whether the IEB members voted on a motion to conduct informal discussion. Appellant also maintains that the minutes he has reviewed do not clearly indicate the reason for going off-the-record. Further, Appellant complains that it has taken as long as several months for the International Union to make verbatim minutes available to him for inspection. Appellant requests relief from the PRB to address these issues.

In terms of Appellant's complaint that the meeting minutes have not reflected that a motion was made and passed by a 7/8 vote, the International Union concedes that "[v]otes historically were not captured in the minutes."²⁶ However, the International Union asserts that it has already taken action to address Appellant's concern. On June 9, 2021, the UAW Ethics Officer, Wilma Liebman, made a recommendation (transmitted through UAW counsel) that the IEB consider having a roll-call vote to reflect attainment of the 7/8 threshold before the Board enters off-the-record discussion under Article 12, §19.²⁷ On June 10, 2021, the IEB put into practice "the act of recording in the meeting minutes the vote of each IEB member voting in favor (or opposition) to going into an 'off-the-record' discussion."²⁸ Appellant agrees that more recent IEB meeting minutes generally have reflected the result of the roll-call vote required under Article 12, §19. During oral argument, however, Appellant Goeddeke complained that he had requested a copy of this policy from the International Union but none was provided. The International Union responded that the IEB had committed to follow the Ethics Officer's recommendation in June 2021 but had not reduced the policy to writing.

Although it is a positive development that the IEB has agreed to record roll-call votes taken pursuant to Article 12, §19, we are concerned that there is no written policy. It appears that for many years the IEB did not record these votes and, thus, there was no way to confirm after the fact that the IEB had adhered to the requirements of Section 19. Without a written policy, it is possible that the IEB might erroneously revert to its prior practice and once again fail to record votes taken under Section 19. In addition, a written policy provides greater clarity to future IEB members and the membership than an unwritten practice. Therefore, in order to ensure that the Constitution's requirements are followed going forward, the PRB requests that within 30 days of this decision, the IEB reduce its policy to writing, provide a copy to the PRB and Appellant Goeddeke, and publish the policy to the membership.²⁹

²⁶ Record, p. 70.

²⁷ Record, p. 63.

²⁸ Record, p. 70.

²⁹ We note that other policies recommended by the UAW Ethics Officer have been adopted by the IEB in writing, such as the Conflict of Interest policy adopted on November 17, 2020.

The PRB also agrees with the Appellant that the IEB should indicate on the record the reason for conducting informal discussion, at least in general terms. The International Union has argued that there is no explicit requirement in the Constitution that the IEB state the reason for off-the-record discussion in its meeting minutes and, therefore, Appellant's request should be denied. Alternatively, at oral argument, the International Union maintained that Appellant's requested relief is unnecessary since the reason for informal discussion can be surmised from the context of the recorded discussion prior to going off the record. However, the Board's review of various meeting minutes does not substantiate this claim. To the contrary, the minutes reflect instances where the IEB has suddenly gone off the record in circumstances where it is not possible even to hazard a guess as to topics addressed during informal discussion.

Although we acknowledge that the Constitution does not explicitly require that the IEB identify the topic addressed in informal discussion, the Board finds that such a requirement should be inferred from the language of Article 12, §19. As explained above, one of the requirements of Section 19 is a determination that the best interests of the Union are served by off-the-record discussion. Without a statement indicating the topic discussed, it is not possible for the membership to ascertain that off-the-record discussion was conducted in the best interests of the Union. Another requirement is that the IEB take no formal action while off the record. Again, without knowing the topic discussed, the membership cannot determine whether the IEB has abided by this Constitutional requirement. Accordingly, a general statement of the topic to be addressed off the record is necessary to effectuate fully Article 12, §19. This requirement should be fulfilled by including a statement of the topic to be discussed as part of any motion to conduct informal discussion under Section 19.

We also note that the International Union agreed during oral argument that there would be no harm to the organization in providing a general description of the topic of informal discussion, with the possible exception of certain matters covered by attorney-client privilege.³⁰ The Board appreciates that there may be sensitive matters such that the purpose of off-the-record discussion would be undermined by providing anything more than a very general description of the matter addressed. For example, if the IEB entered off-the-record discussion concerning a new organizing campaign, it would be acceptable to provide only a general description which did not include the name of the target employer or specific information from which the employer could be identified. The objectives of Article 12, §19 are satisfied provided that topic is indicated with enough detail to establish whether informal discussion was conducted consistent with the Constitution.

Although we hold that it is necessary to indicate in the meeting minutes the topic addressed during informal discussion, the PRB does not agree with Appellant that the

³⁰ With regard to matters covered by attorney-client privilege, we observe that not every communication between counsel and a client is privileged. Even when there is a need for off-the-record discussion in order to preserve attorney-client privilege, the UAW Legal Department should be able to craft a generic description of the topic for off-the-record discussion which does not waive the assertion of privilege.

best interests of the Union are limited to shielding information from “enemies” of the organization. This formulation is too narrow and lacks support in the language of the Constitution itself. The Convention remarks upon which the Appellant bases his argument cite the need to conceal information from enemies of the Union as a reason for the proposed amendment to Section 19. However, there is no indication that this reason was intended as the only proper rationale for conducting off-the-record discussion. Accordingly, the language adopted by the Delegates focuses more generally on the “best interests of the Union.” This language is broad enough to include matters such as sensitive personnel issues and litigation strategy, which the International Union has cited as legitimate grounds for conducting off-the-record discussion.

In addition, although Convention proceedings can be helpful in understanding Constitutional provisions, the PRB views the UAW Constitution as a living document. As such, the Constitution is subject to reasonable interpretation to meet new situations as they arise. Indeed, it would be unrealistic to attempt to limit the Constitution’s provisions to the meaning originally ascribed to them. For the same reason, the PRB does not think that it would be useful to attempt to provide an exhaustive list of appropriate reasons for off-the-record discussion. Instead, it is sufficient for the IEB to identify the topic addressed in off-the-record discussion so that the membership has the information necessary to evaluate whether the decision to undertake informal discussion was made in the best interests of the Union.

Lastly, Appellant has argued that it takes too long for the Union to make meeting minutes and summaries available to members. He asks that the PRB impose a deadline of 14 days for the IEB to make verbatim minutes and summaries available to the membership. During oral argument, the International Union acknowledged that past requests to review verbatim minutes had sometimes taken many weeks or even several months to process. The International Union also explained that this was due in part to the procedure in place to ensure the accuracy of the verbatim minutes. This procedure involves review of the minutes by the Secretary-Treasurer’s office, the President’s office, and lastly the Legal Department.³¹ Despite some past lapses, the International Union indicated that it strives to make summaries and minutes available at least two weeks prior to the next IEB meeting.

Article 12, §19 states that the verbatim minutes “shall be transcribed immediately,” but does not otherwise supply a deadline by which the minutes and meeting summaries must be made available to the membership. We agree with the International Union that the deadline proposed by Appellant is not reasonable, even though the word “immediately” indicates that the Union should act with dispatch. Nevertheless, we believe that there must be an outer limit on the time taken to make minutes and summaries available, or else the requirement to provide these materials could become meaningless. Part of the reason to make minutes and summaries available is so that the membership

³¹ During oral argument, the International Union further explained that the purpose of this review process is to correct any transcription errors or clarify the record, for example in the event that a name or date was incorrectly given in the record. However, because the Constitution requires verbatim minutes, no substantive changes are made to the transcripts during the review process.

can voice concerns regarding actions taken by the IEB and have these concerns addressed in a meaningful way. This objective cannot be effectively fulfilled unless the minutes and summaries are available for a reasonable time in advance of the IEB's next meeting. As indicated, the International Union already aims to make the minutes and summaries available at least two weeks prior to the next IEB meeting. Therefore, it is reasonable and consistent with the Constitution to require that the International Union do so.

For all the foregoing reasons, the appeal is granted in part and denied in part. As relief, the PRB directs the following:

- (1) Within 30 days of this decision, the IEB shall commit to writing its policy regarding motions and roll-call votes under Article 12, §19, provide a copy to the PRB and Appellant, and publish the policy to the membership;
- (2) Going forward, the IEB shall indicate in the verbatim minutes the topic(s) addressed during any off-the-record discussion;
- (3) Going forward, the International Union shall make meeting summaries and verbatim minutes available in the manner directed under Article 12, §19 no later than two weeks prior to the next IEB meeting.

Appellant's other requests for relief are hereby denied.

It is so ordered.