

# **Construction & General Building Laborers' Local 79 Hiring Hall Rules**

**(Effective January 1, 2016)**

Laborers' Local No. 79's existing hiring hall rules follow in their entirety.

## **Section 1. Registration of Availability for Referral**

A. An applicant seeking referral to a job must file with Local 79 a signed and dated referral form providing name, telephone number and social security number, and stating any skills the applicant possesses and the jobs the applicant is able to perform, including any relevant licenses or certifications, and the locations within the five boroughs of New York City to which the applicant is willing to be referred. The referral form shall further provide the applicant an option to receive calls from an Immediate Availability List. Blank referral forms will be available at the offices of Local 79. In addition, an applicant who is a member of Local 79 must obtain a photographic identification card from Local 79 in order to register on an out-of-work list. An applicant on the Out-of-Work List shall be a journeyman with respect to the types of work for which he registers as determined by the JATC or enrolled as an apprentice in the JATC administered program. All applicants must maintain a current OSHA certification. If the JATC has determined an applicant lacks sufficient experience in particular skill areas and requires that the applicant undergo further training or receive additional work experience, the applicant will not be eligible for referral in areas specified by the JATC until the JATC deems him/her qualified. Local 79 will compile two out-of-work lists, consisting of the applicants who have registered their availability for referral, one for Mason Tenders and Tier A Interior Demolition Workers and one for Tier B Interior Demolition Workers. Applicants may register their availability on either or both lists. Local 79 may confirm any prior employment, licenses, or certifications listed by an applicant. Local 79 has five business days from the time a member places his or her name on the out-of-work list to challenge an applicant's representations concerning his or her prior employment, licenses, or certifications. If Local 79 makes a timely challenge, it must promptly notify the applicant in writing, who shall have five business days from the receipt of this notice in which to respond and to submit any relevant information. Any applicant who remains aggrieved by a final decision of Local 79 may file a protest with the Independent Hearing Officer, who shall finally resolve all such disputes in accordance with procedures that he shall establish.

B. Apprentices shall be referred under a separate out-of-work list, and shall be listed according to their apprenticeship year. Apprentices shall not be required to possess the skill qualifications otherwise specified by the Employer, and the referral form for Apprentices need not request information on Apprentices' skills. Where a job calls for a particular type of work specified in the Work Process Schedule for a Construction Craft Laborer under a state or federal Bureau of Apprenticeship Training approved Apprenticeship Program, the dispatcher may pass over an

Apprentice who has attained the required work experience in that area and refer the next available Apprentice who has not satisfied that requirement.

C. Only applicants who are not currently employed at the trade can register their availability for referral. Applicants who, while registered and awaiting referral, obtain one or more jobs at the trade must advise Local 79 within 24 hours (excluding weekends and contract holidays). Subject to the following provisions regarding short-term employment, those applicants will then be removed from the out-of-work lists. Failure to advise Local 79 of such employment as required herein will result in the applicant being removed from the out-of-work list for a 14-day period during which the applicant would otherwise have been registered and eligible for referral. The above notwithstanding an applicant who properly notifies Local 79 of such employment will return to his or her position on the applicable out-of-work list prior to receiving such employment if he notifies Local 79 of his or her availability for referral within 24-hours (excluding weekends and contract holidays) of any such job's termination and the cumulative number of days worked in such employment during any single period of registration on the out-of-work list does not exceed twenty days of at least four hours work each. Any such days worked shall also be counted towards the applicant's period of short-term referral under Section 2(C) below, except applicants shall be entitled to at least one referral by the Union so long as they have not worked in excess of twenty days through such company referred employment.

D. Applicants shall be removed from the out-of-work lists upon receiving a job referral, subject to the provisions at §1(C) and §2(C) on short-term employment/referrals. An applicant who is laid off or discharged from a job must again register his or her availability in order to be included on the out-of-work lists.

E. Once an applicant has registered his or her availability for referral, by filing a signed referral form with Local 79, the applicant may afterward register his or her availability by telephone, telefax, letter, or online through eLocal to Local 79.

F. An applicant's registration of availability for referral shall be in effect for the calendar quarter in which the registration of availability is filed (i.e. January 1 through March 31; April 1 through June 30; July 1 through September 30; or October 1 through December 31). An applicant must again register his or her availability by telephone, telefax, letter, or online through eLocal within the first five business days of the following calendar quarter in order to retain his or her position on the out-of-work list if said applicant has already obtained a photographic identification card from Local 79. If said applicant is a member of Local 79 and does not have a photographic identification card, said applicant must obtain such a card before registering.

## **Section 2. Referral Procedure**

A. Subject to the procedures of §2(B) and §2(G) below, applicants on the applicable out-of-work list shall be referred to jobs in the order in which they have registered their availability for referral, with the first registered applicant referred first, provided that the applicant has indicated that he or she has the qualifications requested by the employer and has indicated that she or he is willing

to work at the location of the job. The referral process for Apprentices shall be modified as provided in Section 1(B) above.

B. Requests by an employer for specific individuals shall be fulfilled, as required by applicable collective bargaining agreements. In addition, within 12 months of being referred to an Employer pursuant to the regular referral procedures set forth in these rules, an applicant may be individually requested in writing by such employer, and will be called first for such referral, provided that the applicant's preferences as stated on his most recent job referral form comply with the criteria of the job at issue.

C. If an applicant is referred to a job that lasts twenty working days or less (five or less for apprentices; and working day being defined for all as a day of at least 4 hours work) either because (1) the job terminated, or (2) the applicant is laid off or discharged, the applicant will return to his or her position on the applicable out-of-work list prior to receiving the referral, provided the applicant notifies Local 79 of his or her availability for referral within 24 hours of each such job termination (excluding weekend and contact holidays), lay-off or discharge. In accordance with this procedure, the applicant shall continue receiving job referrals and return to his or her prior position on the applicable out-of-work list until the applicant has been referred to jobs (or obtained non-referred employment under Section 1(C) cumulatively providing a total of more than twenty days (five in the case of apprentices) of four hours work each; thereafter the applicant will be placed on the bottom of the applicable out-of-work list. The provisions herein on restoring an applicant to his or her prior position on the applicable out-of-work list are inapplicable and the applicant will further be removed from the out-of-work list for a 21-day period during which the applicant would otherwise have been registered and eligible for referral, if the applicant takes any actions within the first twenty days of employment designed to manipulate this provision of the Hiring Hall Rules, such as voluntarily quitting or requesting to be laid off or discharged from a job to which the applicant is referred.

### **Comments**

Of course, if an applicant voluntarily quits or requests to be laid off or discharged from a job and is penalized as described above for attempting to manipulate this provision of the hiring hall rules, the local union must document the circumstances surrounding this situation thoroughly.

D. To notify an applicant of a job referral, Local 79 will call the applicant at the telephone number provided by the applicant on the referral form. Local 79 will record the date and time of the call, the person making the call, the name of the employer, the location of the job, the start date of the job, and the results of the call, including whether the call was answered, by whom and what response, if any, was made.

E. Any applicant who refuses three referrals while maintaining the same date of registration on the Out of Work List shall be moved to the bottom of the applicable out-of-work list that was the basis for the referrals. Applicants who determine not to pursue employment on jobs about which they are advised that a pre-employment security related background check will be required shall not be charged with a refusal. An applicant will be considered unavailable for referral and shall be removed from the out-of-work list for a 21-day period, if he or she cannot be reached after six calls, separated by intervals of no less than thirty minutes, unless he or she has provided advance notice of his or her unavailability as set forth in paragraph 2(K) below. An applicant who misses two calls in the same day, separated by no less than thirty minutes, will not be called again that day.

### **Comments**

Of course, if an applicant does not pursue a job about which they are advised that a security related background check will be required, the situation should be documented in writing.

F. When Local 79 determines that the applicant who is first on the applicable out-of-work list cannot be referred because of refusal, unavailability, unwillingness to work at the location of the job, or lack of required skills, Local 79 will then refer the next applicant on the applicable out-of-work list who is willing, available, willing to work at the job location, and has the required skills.

G. In the event Local 79 has less than 16 hours remaining to satisfy a referral request, the otherwise applicable referral provisions shall be modified as follows: For all such jobs, the provisions of 2(E) above shall be modified such that an applicant shall only be called once for a given referral. Only the refusal by an applicant to accept such a job (but not a failure to reach the applicant) shall be considered a refusal for purposes of §2(E) of these Hiring Hall Rules. Further, in the event Local 79 has less than six hours remaining to satisfy a referral request, applicants on the Immediate Availability List shall be contacted in the order they otherwise appear on the applicable Out-of-Work List, and in the event Local 79 has less than two hours remaining to satisfy a referral request, applicants on the Immediate Availability List residing in the geographic area (*i.e.* borough) in which the job is located shall be contacted in the order they otherwise appear on the applicable Out-of-Work List. In the event Local 79 exhausts any of the above referenced short term referral systems without referring adequate applicants to a job, it shall then attempt to satisfy the referral using the prior system (*i.e.* the system applicable to less rushed jobs), except applicants who have not registered on the Immediate Availability List shall not be charged for a refusal if they do not accept a job to which the Immediate Availability List applies.

H. An applicant shall not be referred to an employer if the applicant was previously rejected and deemed unsatisfactory for work in writing by the same employer.

I. An applicant shall not be referred to an employer if the applicant was previously discharged for cause by the same employer. If an applicant is rejected in writing by two employers on the basis of lack of the skills necessary to perform a job for which the applicant claimed to be qualified on the job referral form submitted by said applicant, that applicant will not be eligible for referral to a job requiring the same skills without first providing Local 79 with references from two previous employers, showing the applicant has demonstrated the skills required.

J. When an applicant is referred to a job but does not report as required, the applicant shall be removed from the out-of-work list for a 21-day period during which the applicant would otherwise have been registered and eligible for referral. Local 79 may waive this penalty where the applicant demonstrates by clear and convincing evidence that the failure to report was due to factors beyond his or her control and that he or she made a timely, good faith effort to inform Local 79 that he or she would not be able to report for the job. Any period during which a request for a waiver is being considered shall not count as part of the 21-day penalty.

K. Notwithstanding the provisions regarding unavailability set forth in paragraph 2(E) above, an applicant may provide Local 79 advance notice of his or her unavailability. An applicant shall be required to notify Local 79 by telephone, e-mail or fax when the period of unavailability has ended. While maintaining the same date of registration on the Out-of-Work List, an applicant may at most provide notice or notices of unavailability cumulatively covering thirty calendar days. An applicant will be moved to the bottom of the applicable out-of-work list if he exceeds the allowed period of unavailability and will be moved to the bottom of the applicable out-of-work list with a 14 day suspension during which he would otherwise have been registered and eligible for referral if he works at the trade during a period for which he has given notice of unavailability.

### **Comments**

If an applicant provides sufficient evidence that their failure to report was beyond their control and is not penalized as a result, the Local Union must document the circumstances surrounding this situation thoroughly.

K. If after exhausting the procedures set forth in Section 2A above, Local 79 has not filled a request for referral, it will contact, by a single call, other applicants in the order they appear on the out of work list irrespective of any preferences stated on their Job Referral Forms. Applicants receiving any such calls will not be charged with a refusal or unavailability under Section 2E if they refuse or are unavailable for the referral, and further will not have time worked as a result of such referrals counted toward the 15 day period of short term referral under Section 2C of these Rules, provided they contact Local 79 within 24 hours as required under Section 2C.

L. The responsibility of the Local 79 Business Manager regarding the union office of Steward under the Uniform Local Constitution, Article IV, Section E(3), and specifically his responsibility to appoint and supervise Stewards, shall not be repealed or superseded by these Rules.

### **Section 3. Dissemination of the Job Referral Rules**

These rules shall be conspicuously posted at the offices of Local 79. Additional copies of these rules shall be made available to members of Local 79 and to applicants upon request, subject to the payment of reasonable copying costs. New members of Local 79 shall receive a copy of the job referral rules upon admission to membership.

#### **Section 4. Job Referral Information**

The Local Union shall maintain accurate and current records of all job referrals. The records shall be preserved for a period of three years from the making of each record. The records shall include the following information:

A. All registration by applicants of their availability for referral, including the date of each applicant's registration;

B. A current out-of-work list, including all applicants whose registration of availability for referral are then in effect, and the date of each applicant's registration;

C. All requests from employers for workers, including the date of each request, the location of the job site, the length of the job, if known, and any request by the employer for applicants with special skills, licenses, or certifications, or an applicant employed by the employer pursuant to §2(B) above.

D. All instances where a job referral is not made because of an applicant (1) refuses the referral, (2) is unavailable, (3) is unwilling to work at the location of the job, or (4) lacks the required skills, including (where applicable) the date and time of the call(s), the person making the call(s), the name of the employer, the location of the job site, the start date of the job, the basis for not making the referral, the results of the call, including whether the call was answered and by whom, and what response, if any, was made; and

E. All job referrals made, including the applicant referred, the date on which the applicant registered his or her availability for employment, the date of the referral, the employer, the location of the job site, the date the applicant was hired and the date any employment terminated.

#### **Section 5. Access to Job Referral Information**

A. Any applicant can inspect or copy any record containing the job referral information described in §4. An appointment for inspection shall be scheduled for within five (5) days of request. Copies of 500 pages or less shall be provided within ten (10) days of request. Copies of more than 500 pages shall be provided within thirty (30) days of a request. Local 79 will charge \$.50 per page to copy the first twenty (20) pages, and \$.25 per page thereafter.

B. Lists containing the information described in §4(B) and (E) shall be conspicuously posted; or otherwise immediately available for inspection, at the offices of Local 79 on a weekly basis, so that the previous week is posted or immediately available by the close of business on the following Monday. The information shall remain posted or immediately available for at least two weeks.

## **Section 6. Registration Fee**

A qualified applicant seeking to register a referral form with Local 79 who is not a member of Local 79 whose dues are paid up or a person who has paid uniform initiation and agency fees to Local 79 shall pay to Local 79 upon registration, and quarterly thereafter, a fee in the amount of \$66.00 in order to cover said applicant's share of the reasonable cost of maintaining the out-of-work list. A fee paid during any quarter shall be effective only until the end of said quarter (i.e. a fee paid during the period January 1 through March 31, is effective only until March 31, and a new quarterly fee must be paid on April 1, which would then be effective through June 30).

## **Section 7. Multiple Out-Of-Work Lists**

A. Local 79 has established four out-of-work sub-lists for Mason Tenders and Tier A Interior Demolition Workers based upon the applicants' lifetime hours of work at the trade. Eligibility for said lists is as follows:

A List: 4,000 or more hours of work at the trade.

B List: 2,000 to 3,999 hours of work at the trade.

C List: 100 to 1,999 hours of work at the trade.

D List: Less than 100 hours of work at the trade.

B. Requests by employers for workers shall be filled first from the A List, then from the B List, then from the C List, and then from the D List.

C. Local 79 has established three out-of-work sub-lists for Tier B Interior Demolition Workers based upon the applicants' lifetime hours of work at the trade. Eligibility for said lists is as follows:

A List: 2,000 or more hours of work at the trade.

B List: 500 to 1,999 hours of work at the trade.

C List: Less than 500 hours of work at the trade.

D. Requests by employers for workers shall be filled first from the A List, then from the B List and then from the C List.

## **Section 8. Miscellaneous**

A. Referrals to jobs will be on a nondiscriminatory basis and will not be based on, or in any way affected by, race, gender, national origin, sexual orientation, disability, religion, or lawful union-related activity.

B. All referrals by a Local Union to jobs within its jurisdiction shall be made in accordance with these rules except to the extent that any rule contained herein conflicts with either provincial law or with a term of collective bargaining agreement or in accordance with a variance granted under § 8C below. Any Local Union that concludes that these rules conflict with provincial law or the term of a collective bargaining agreement shall apply to the GEB Attorney, furnishing such information as he shall determine. The GEB Attorney shall advise the Local Union in writing whether such a conflict exists. In cases where a term of a collective bargaining agreement conflicts with these rules, the Local Union or district council shall use its best efforts to modify that term in any successor agreement in order to fully conform to these rules. All newly negotiated agreements should include these rules and, where applicable, the Local Union or district council shall use its best efforts to include an exclusive hiring hall provision in all successor or newly negotiated collective bargaining agreements.

C. Application for a variance from a provision(s) of these Rules may be made in writing to the General Executive Board Attorney. The General Executive Board Attorney may grant such an application provided he determines that the variance is consistent with the LIUNA Ethical Practices Code, with applicable law, and is intended to further a legitimate purpose. Further, a variance shall be subject to any other condition imposed by the General Executive Board Attorney.

D. Any complaints or concerns regarding alleged violations of hiring hall procedures should be directed in writing to the Office of the General President, Laborers' International Union of North America, 905 16<sup>th</sup> ST., NW, Washington, D.C. 20006. Alleged violations of LIUNA's Code of Ethics should be promptly addressed to Inspector General John Billie, (202) 942-2360.