

Asbestos, Lead & Hazardous Waste Laborers, Local 78 New York

Hiring Hall Rules

(Effective March 1st, 2021)

Section 1 - Registration of Availability for Referral

A. An applicant seeking referral to a job in New York must file with Local 78 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. All applicants must, at a minimum, possess and provide documentation demonstrating they have the following certifications: Medical test/Fit test, OSHA Safety, Scaffold User and one of: Asbestos or Lead or Mold Licenses. Blank referral forms will be available at the offices of Local 78 and on its website. An applicant on the Out of Work List shall be a journeyman as determined by the Joint Apprenticeship Training Committee (“JATC”) or enrolled as an apprentice in the JATC administered program. If the JATC has determined that an applicant lacks sufficient experience in a particular skill area and requires that the applicant undergo further training, the applicant will not be eligible for referral in that area until the JATC deems him/her qualified in that area. Local 78 will compile an out-of-work list, consisting of the applicants who have registered their availability for referral.

B. Apprentices shall be referred under a separate out-of-work list. 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, after registering their availability for referral, on their own obtain a job at the trade must advise Local 78 within 24 hours. Those applicants will then be removed from the out-of-work list, and treated as working pursuant to a referral, including being subject to the provisions of Section 2\ C on short-term referrals. Failure to advise Local 78 of such employment as required herein will result in the applicant being ineligible for registration on the out of work list for a period of 30 days commencing the first time — subsequent to the violation coming to the attention of the Local — that he attempts to register; and for a period of 60 days for any further violation in the same calendar year.

D. Applicants shall be removed from the out-of-work list upon receiving a job referral, subject to the provisions at Section 2 C on short-term 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 list.

E. To initially register on the Out of Work an applicant must send an email (OWL@local78.org) or fax (718-425-9798) to the Local during regular business hours with a completed and signed referral form indicating his or her availability for referral and copies of all relevant licenses and certifications. In order to maintain his or her registration-date, applicants must re-register by e-mail or by fax during regular business hours – on the first Monday of every month (or

the following day, Tuesday, if the office is closed on the Monday). The Union will make its best efforts to administer changes to the out-of-work list resulting from re-registration process by the following business day, or as soon thereafter as possible.

Section 2. Referral Procedure

A. Applicants on the 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 further provided that said applicant has not been rejected and deemed unsatisfactory for work in writing by the employer making the request for workers.

B. Requests by an employer for specific individuals previously employed by the employer shall be fulfilled, as specifically required by applicable collective bargaining agreements.

C. To notify an applicant of a job referral, Local 78 will call the applicant at the telephone number provided by the applicant on the referral form. Local 78 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. An applicant who misses two calls in the same day, separated by no less than thirty minutes, will not be called again that day.

D. When Local 78 determines that the applicant who is first on the out-of-work list cannot be referred because of refusal, unavailability, previous written rejection by the requesting employer, or lack of required skills, Local 78 will then refer the next applicant on the out-of-work list who is willing, available, has not previously been rejected, in writing by the requesting employer, and has the required skills. In the event of rejections based on positive alcohol or drug testing or based on the acknowledgement of a need for such treatment, the applicant will be again be deemed eligible for referral only upon completion of the treatment program recommended by a qualified medical or treatment professional.

E. If an applicant is rejected in writing by three employers on the basis of lack of the skills and abilities necessary to perform a job to which the applicant has been referred, that applicant will be ineligible for listing on the out-of-work list unless and until such applicant has provided Local 78 with references from two employers post-dating the rejections, showing the applicant has demonstrated the skills and/or competence required to perform the work.

F. An applicant who is referred to a job or jobs which last less than 40 hours either because (1) the job is terminated or (2) the applicant is laid off or discharged will return to his or her position on the out-of-work list prior to receiving the referral, provided the applicant notifies Local 78 of his or her availability for referral within 48-hours (excluding weekends and contract holidays) of any such job termination, lay off or discharge. However, after receiving a job referral or referrals following such a short-term referral so that a total of 40 hours have been worked, that individual must again register in order to be included on the out-of-work list. The short term referral provisions herein are inapplicable and the applicant will be removed from the out-of-work list if the applicant takes any actions within the first 40 hours of employment designed to manipulate this provisions 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.

G. An applicant shall be removed from the out-of-work list for the shorter of 30 calendars

days or the remainder of the registration period set forth in Section 1 E above, if while maintaining the same out-of-work list registration date, the applicant refuses or is “unavailable” for two referrals. An applicant will be considered “unavailable” if on two separate occasions, separated by at least thirty minutes, he or she cannot be reached by calls placed to the telephone number provided by the applicant, unless he or she has given Local 78 notice in writing of his or her unavailability for a period not to exceed thirty days. The preceding will also not apply in the case of a referral opportunity provided to an applicant less than one hour before the start of the job; and applicants who determine not to pursue employment on jobs about which they are advised of the requirement to undergo a pre-employment security check will not be charged with a refusal.

H. An applicant who accepts referral to a job (other than for a short notice job as defined in the job referral form (a “Short Notice Job”)) shall have one hour from the acceptance to call to revoke such acceptance, in which case the referral shall be counted as a refusal. Any applicant who after accepting referral does not report to a job, including but not limited to any applicant who accepts and does not report for a Short Notice Job, shall be subject to suspension from the Out of Work List pursuant to the following schedule. After the first such failure to report – 30 days suspension; after the second failure to report in one calendar year -- sixty days suspension; after the third failure to report in a calendar year – 90 days suspension. Local 78 may waive this penalty where the applicant demonstrates by clear and convincing evidence that a 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 78 that he or she would not be able to report for the job.

I. In the event Local 78 is unable to identify a qualified applicant for referral after exhausting the provisions set forth above, Local 78 will forward a text message to all registered applicants advising them of: i) the skills/qualifications necessary for the job, *e.g.* New York Abatement license; Apprenticeship, etc.; ii) the general geographic area in which the job is located, *e.g.* Long Island, or the applicable NYC borough; iii) the shift; and iv) the number of handlers being sought. Applicants interested in the referral will be required to text back to an automated system that orders them according to the time of their response. The Local will then call applicants in the order in which they responded to inform them of the work opportunity. Applicants receiving the call are under no obligation to accept the referral. The Local will, in turn, verify that any responding individual is in fact qualified for the referral; and shall not refer an unqualified person. An applicant shall also not be referred to an employer if the applicant was previously rejected and deemed unsatisfactory for work in writing by the same employer.

J. The responsibility of the Local 78 Business Manager regarding the union office of Steward under the Uniform Local Union 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 78. Additional copies of these rules shall be made available to members of Local 78 and to applicants upon request, subject to the payment of reasonable copying costs. New members of Local 78 shall receive a copy of the job referral rules upon admission to membership.

Section 4. Job Referral Information

Local 78 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(D) above;

D. All instances where a job referral is not made because of an applicant (1) refuses the referral, (2) is unavailable, (3) has previously been rejected in writing by the requesting employer, 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.

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, and the date the applicant was hired and the date any employment terminated.

Section 5. Access to Job Referral Information

A. No more than once per monthly registration period, an 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 78 will charge \$.75 per page to copy the first twenty (20) pages, and \$.50 per page thereafter.

B. Lists containing the information described in Section 4 B and 4 E shall be conspicuously posted; or otherwise immediately available for inspection, at the offices of Local 78 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

An applicant seeking to register a referral form with Local 78 who is not a member of Local 78 or of any other local union affiliated with the Mason Tenders District Council of Greater New York whose dues are paid up or is not a person who has paid uniform initiation and agency fees to Local 78 shall pay to Local 78 upon registration, and quarterly thereafter, a fee in the amount of \$25.00 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. Non-Discrimination in Job Referrals

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

Section 8. Complaints

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 16th St., NW, Washington, D.C. 20006.