PROCEDURE POLICY ON CONSTITUTIONAL MATTERS

1. This policy governs the implementation of Article 18 Sections B and C concerning the right of members to request a Review of Decision, or charges against members for alleged violations of the constitution.

Committee on Constitutional Matters

2. The Committee on Constitutional Matters shall be appointed by the President and include not less than 2 members.

3. Committee members have the right to demand any information relevant to their investigations, and all Local Union Officers, Staff Representatives, Directors and Officers shall cooperate and assist the Committee in its work.

4. The Committee shall determine its own procedures on any matter not specified by the Constitution or this policy.

5. If translation services in French or English are required for documents, written submissions or interpretation is required in French or English for hearings, the Committee shall arrange for these services to be provided at the cost of the National Union.

6. If the record, or a hearing, involves information concerning a member’s employment record or any other confidential information, all such information shall be provided to the Committee in a confidential manner, and the Committee will take all appropriate steps to maintain the privacy of the member and the confidentiality of the information provided.

7. Contact information for the Committee shall be available to Local Unions and members on the National Union web site.

Time limits and procedures

8. The time limits and procedures set out in this policy are mandatory. Only the National President may waive a time limit or other requirement, based on consideration of extraordinary circumstances.

9. A Request for Review which cannot be practically considered within time limits required by a collective agreement or by a legal process shall be considered inadmissible.

10. A written request for Review of Decision, a charge, or an appeal is considered to have been filed on the date of the postmark.
A Request for Review

11. A Request for Review must be made within 30 days of a decision or action, or the member’s knowledge of the decision or action or within 30 days of when a member ought reasonably to have knowledge of the decision.

12. A Request for Review shall be mailed or delivered to the President of the Local Union representing the member, or the accountable body to which the deciding authority reports. An accountable body may be a Bargaining Unit membership meeting, or an Executive or Committee with the authority to make a final decision. The Request for Review shall be sent to the Recording Secretary or to another appropriate Officer.

13. If a decision or action subject to Review was made by a Staff Representative, Director, Regional Director, Officer or by a Council or Bargaining Council or Committee, the request for review shall be sent to the Committee at the Office of the President and shall be processed directly by the Committee on Constitutional Matters as described in the “second level of review” below.

14. The Request for Review of Decision shall:
   • be in writing and be legible
   • be signed by the member and dated
   • contain a return mail address, email address, phone numbers and other appropriate contact information
   • include the name of an advocate or any person preparing the Request on behalf of the member
   • be specific in describing the action or decision which is to be reviewed
   • be specific in describing why the action was not fair or reasonable or did not have a rational basis
   • be specific in describing how the action or decision results in an injury or penalty to them
   • be specific in describing the remedy or outcome requested

15. If an appeal is mailed, it is deemed to be filed on the date of the postmark.

16. The Committee may return the Request for Review if it is does not meet the criteria specified above. However, if a Request for Review is returned it does not extend the time limit.

First Level of Review:

17. The Local Union which receives a request to Review a Decision or the Bargaining Unit pertinent to the decision under review shall consider the matter at their next regular meeting. If there is no regular membership or Bargaining Unit meeting which can practically respond to the request, the Local Union or Bargaining Unit Executive may conduct a review.
18. The member shall have a full opportunity to present arguments.

19. On matters of limited scope such as procedural rulings, appointments to committees or delegations, awards, personal recognition or recreational affairs, the review by the Local Union shall be final and without further review.

**Second Level of Review:**

20. A Review of Decision by the Committee is the second level of review. A request for a further review shall be within 30 days of a decision by the Local Union or Bargaining Unit.

21. When the Committee receives the request for a Review of Decision it shall acknowledge receipt of the request to the member and notify the Local Union or any other respondent that the request has been received.

22. The Local Union or respondent shall within 21 days forward to the Committee a full record of the matter. The record shall include all relevant information in the file of the Local Union, including motions passed, minutes of proceedings, and correspondence. The Committee may request further information to be provided.

23. The Committee will review the record and carry out a preliminary investigation of the matter. The Committee will determine if further information is required. If relevant facts are agreed, the Committee may ask for written submissions, and may establish a time limit for the member and/or the Local Union for such submissions.

24. The Committee may also determine that a hearing is required. A hearing convened by the Committee shall be held in the region where the member resides. It shall be informal and provide all parties a full opportunity to be heard. Generally, hearings shall be based on the record of the matter, and the information and arguments presented by the member or the Local Union. However, in exceptional circumstances, the Committee may agree to hear witnesses or third parties.

25. The member is entitled to an advocate who will assist them in the hearing, and who may present arguments on behalf of the member. All costs for an advocate shall be borne by the member.

26. The Committee shall make every effort to prepare a written decision in a timely way, and shall send to the member a copy of the decision by registered mail and notify the Local Union and any other respondent.

27. A request for further review to the Public Review Board must be made within 30 days of the member receiving the decision by letter addressed to the PRB sent care of the National President. The full record is then forwarded to the PRB. The Public Review Board may request further submissions concerning the full record or determine that a hearing is required however it may not expand the record.
Charges Against Members

28. Charges against members shall be sent to the Local Union of the accused, and to the Office of the President. When a charge is received at the Office of the President, the Committee shall act on behalf of the President.

29. A charge against a member must
   • be in writing and be legible
   • be signed by the person(s) laying the charge and dated
   • contain a return mail address, phone numbers and other appropriate contact information
   • be specific in describing the basis of the charge including the Articles of the constitution that have been violated
   • be specific in describing the actions of the accused that give rise to the charge

30. The charge shall be sent to the Recording Secretary of the Local Union of which the accused is a member. The Local Union, or the Local Union Executive, shall vote on whether the charge is proper.

31. A charge shall be considered proper if there are facts or information which indicates that an apparent case of violation of the constitution may have taken place. An accusation which is considered frivolous or vexatious shall not be considered proper. A charge which is irregular as regards its timeliness or specificity shall not be considered proper.

32. If the Local Union considers the charge to be proper it shall immediately inform the Office of the President that a charge has been laid and notify the accused by registered letter within 7 days. The Local Union shall forward the charge and a full record of all matters relating to the charge to the Committee. The full record includes all documents or correspondence which may be relevant.

33. If the Local Union considers the charge to be improper, the person laying the charge may within 30 days of the Local Union decision, appeal the decision to the Office of the President.

34. The Appeal to the President shall include the full charge sent to the Local Union, but the appellant member may not alter or amend the charge, or include additional information not considered by the Local Union. It must be signed and dated by the person laying the charge.

35. Upon receiving a charge in the Office of the President, the Committee will inform the accused in writing that a charge has been received.

36. The Committee will determine if the charge is admissible, including its timeliness, specificity and whether the charge may be frivolous or vexatious. The charge shall be dismissed if it is irregular in any of these respects.
37. If the charge is deemed admissible, the Committee shall inform the accused and the persons laying the charge of any investigation it deems necessary, and whether written submissions or a hearing shall be convened. Within 21 days of receiving this information, the accused may require that a hearing be held.

38. If a hearing is convened, it shall be held in the region where the accused resides. A hearing shall be informal and provide all parties a full opportunity to be heard. Rules of evidence shall not apply, and the Committee may inquire into the facts in any way it deems appropriate.

39. The accused is entitled to an advocate who will assist them in the hearing, and who may present arguments on behalf of the accused. All costs for an advocate shall be borne by the accused.

40. The Committee shall render a decision in writing which provides reasons for its decision. The decision shall be sent by registered mail to the accused and to the person(s) laying the charge.

41. Within 30 days of receiving the decision of the Committee, either the accused or the persons laying the charge may appeal the decision to the National Executive Board. The appeal shall be sent to the Office of the President, and shall be signed and dated.

42. The appeal shall include:
   • a copy of the decision which is appealed
   • specific reference to decision or part of the decision which is appealed
   • a summary of reasons for the appeal
   • the remedy sought

43. If an appeal to the National Executive Board has been received, the Committee shall inform the parties that an appeal has been received and inform the parties of the date of the meeting of the NAC when the appeal will be heard.

44. The Committee will inform the National Appeals Committee of the NEB that an appeal will be heard and arrange a meeting of the National Appeals Committee at the time of the regular National Executive Board meeting. The National Appeals Committee will be provided with the full record of the charge for review.

45. The National Appeals Committee shall not consider any information or allegations not provided to the Committee at the previous appeal.

46. Based on the review of the record, National Appeals Committee shall
   • determine that a new hearing be held
   • recommend to the NEB that the decision of the Office of the President be upheld
   • recommend to the NEB to amend any reprimand or penalty
   • recommend to the NEB to dismiss the charge
47. The decision of the NEB shall be sent by registered mail to all parties.

48. An appeal to the Public Review Board must be made within 30 days of receiving the decision of the NEB decision by letter of appeal to the National President. The National President shall insure that the letter of appeal and the full record is delivered to the PRB. The PRB shall not expand the record. Within 120 days, the PRB shall render a decision in writing which may:

- Uphold the decision of the National Executive Board
- Overturn the decision if it is unreasonable, and substitute a decision that is appropriate in all the circumstances including a direction that the matter be reheard by a lower body.