Procedure Policy on Constitutional Matters

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PROCEDURE POLICY ON CONSTITUTIONAL MATTERS

This policy is a supplement to the Unifor Constitution. It falls within the authority of the National Executive Board. This policy determines time limits and procedural requirements that apply to matters under Article 18 of the Unifor Constitution.

COMMITTEE ON CONSTITUTIONAL MATTERS

1. The Committee on Constitutional Matters (the "CCM") is appointed by the National President.

2. The CCM has the right to access any information relevant to its investigations. All Local Union Officers, Staff Representatives, Directors and Officers shall cooperate and assist the CCM in its work.

3. The CCM shall determine its own procedures on any matter not specified by the Unifor Constitution or this policy.

4. If translation services in French or English are required for documents, written submissions, or if interpretation is required for hearings, the CCM shall arrange these services. The National Union will cover the cost of these services.

5. The CCM will take appropriate steps to maintain the privacy of all information provided to it.

6. The CCM's contact information is constitutionalmatters@unifor.org.

TIME LIMITS AND PROCEDURES

7. The time limits and procedures in this policy are mandatory. Only the National President may waive a time limit or other requirement. The waiver of a time limit or other requirement shall require extraordinary circumstances.

8. A Request for Review of Decision ("review"), which cannot be practically considered within the time limits required by a collective agreement or by a legal process, is inadmissible.

9. Whenever possible a written request for review, a charge or an appeal should be submitted by email. However, if a written request for review, a charge, or an appeal is submitted by regular mail, it is considered filed on the date of the postmark.

10. No review, charge or appeal will be considered if the member has started a legal proceeding in a court, civil authority or other external body about the same subject or the same remedy before exhausting the internal Unifor Constitutional procedures.

REQUEST FOR REVIEW OF DECISION UNDER ARTICLE 18.B (FIRST LEVEL REVIEW)

11. A member has the right to request a review by a deciding authority arising from any action or decision which the member believes did not have fair and reasonable consideration, or lacks a rational basis and which results in an injury or penalty to them.

    a) A request for review about a collective agreement or about workplace rights and processes, including decisions or actions about grievances, cannot be reviewed.

    b) The Committee may decline to consider a request that is trivial, frivolous or vexatious including where the alleged injury or penalty appears to be minimal.

12. A request for review must be made within 30 days of:

    - the decision or action, or;
    - the date the member became aware of the decision or action, or;
    - the date the member ought reasonably to have known of the decision or action.

13. A request for review shall be emailed, mailed or delivered to the Local Union President representing the member, or the accountable body to which the deciding authority reports. An accountable body may be a bargaining unit membership

meeting, or a Local Union Executive or Committee with the authority to make a final decision.

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

15. The Local Union or accountable body which receives a request for review, shall consider the matter at its next regular meeting. If there is no regular membership or bargaining unit meeting which can respond to the request, the Local Union Executive Board or accountable body shall conduct the review and provide a written decision.

16. The member shall have a full opportunity to present arguments.

17. 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 not subject to further review.

REQUEST FOR FURTHER REVIEW OF DECISION (SECOND LEVEL REVIEW)

18. The CCM is responsible for processing second level reviews. A member may request a second level review by sending the request to the CCM. The request must be in writing and submitted within 30 days of the first level review decision, or the date that the member became aware of that decision, or the date the member ought reasonably to have known of that decision. When the CCM receives the request for review it shall confirm receipt of the request to the member. The CCM will also notify the Local Union, or any other respondent, that it received a request for second level review.

19. If the request is timely and otherwise proper, the Committee shall consider the request. The Committee may decline to consider a request that is trivial, frivolous or vexatious including where the alleged injury or penalty appears to be minimal.

20. If the Committee considers a request, it may make a summary decision with reasons, or it may investigate the request before making a decision. If the Committee investigates the request, it may require the member or the local union or accountable body to provide relevant documents or submissions, or obtain other relevant information from other sources, or hold a hearing, or take such other steps as are necessary to make a decision.

21. If the CCM holds a hearing about the request for second level review, it shall decide the form of hearing that is appropriate in the circumstances. A hearing may be an oral hearing or a hearing in writing. An oral hearing may be held by video conference or in-person. If there is an in-person hearing, it shall be held in the region where the member resides.

22. Every hearing shall be informal and provide all parties a full opportunity to be heard. Generally, hearings shall be based on the written record of the matter, and the arguments presented by the member or the Local Union. In exceptional circumstances, the CCM may, at its discretion, receive evidence from witnesses or third parties.

23. Lost time for the appellant or member witnesses is at the sole discretion of the Local Union.

24. The appellant 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 appellant.

25. The CCM shall make every effort to issue a written decision to all relevant parties within 30 days of concluding its investigation.

REQUEST FOR FURTHER AND FINAL REVIEW OF DECISION (THIRD LEVEL REVIEW)

26. A member may request a third and final review by the Unifor Public Review Board. The member shall do so by notifying the Office of the National President. The notice must be in writing and submitted within 30 days of the decision of the CCM or the National Executive Board.

CHARGES AGAINST MEMBERS UNDER ARTICLE 18.C

27. A member in good standing, a group of members, Local Union or subordinate body may file a charge if they have reasonable cause to believe that another member has violated the procedures and responsibilities established by the Unifor Constitution or the Code of Ethics which form part of the Unifor Constitution.

28. Any alleged act of personal conduct, which constitutes harassment as defined by the Unifor Policy on Harassment, Discrimination and Violence Prevention and Resolution for Union Events, shall be subject to investigation and resolution under that policy and shall not be the basis for a charge. The Unifor Policy on Harassment, Discrimination and Violence Prevention and Resolution for Union Events is posted on the Unifor National website.

29. A charge against a member shall first be submitted to the Local Union Executive Board of the accused member and must be:

    - in writing;
    - filed within 30 days of a violation or knowledge of a violation;
    - contain an email address, home mail address, phone numbers and other appropriate contact information;
    - specific in describing the basis of the charge including the specific Articles of the Unifor Constitution/Code of Ethics that are alleged to have been violated;
    - specific in describing the actions of the accused that give rise to the charge.

30. The Local Union Executive Board shall determine if the charge is proper because it meets the requirements of Article 18.C.4 of the Constitution. A charge is also not proper if it is trivial, frivolous or vexatious.

31. If the charge meets the requirements of Article 18.C.4 of the Constitution, the Local Union Executive Board shall send the charge and a full record of the charge to the Office of the President, with a copy to the accused member and to the member who filed the charge.

32. If the Local Union Executive Board decides that the charge does not meet the requirements of Article 18.C.4 of the Constitution, it shall dismiss the charge. The Local Union Executive Board shall immediately notify the charging member that it has dismissed the charge and that the charging member has a right to ask the Office of the National President to review that decision.

33. If the charging member disagrees with the Local Union decision that the charge is not proper, the charging member may forward the charge to the Office of the National President within 30 days of their receipt of the Local Union Executive

Board's decision and request that the Office of the National President decide if the Local Union Executive Board's decision was correct or incorrect. The charging member may not alter or amend the charge, or send new information or allegations that were not considered by the Local Union.

34. Where the Local Union Executive Board has forwarded a proper charge to the Office of the National President or if the Office of the National President decides that the Local Union Executive Board incorrectly decided that the charge was not proper, the Office of the National President shall deal with the charge in accordance with Article 18.C.6. of the Constitution Despite the Local Union Executive Board's findings, the Office of the National President at any time may decide that the charge is not proper because it does not meet the requirements of Article 18.C.4 of the Constitution or because it is trivial, frivolous or vexatious.

35. The Office of the National President shall send a copy of a proper charge to the accused member and invite the accused member to provide an answer to the charge.

36. The Office of the National President shall at the same time inform the member of their right to request a hearing about the charge. If there is a hearing, it will be the kind of hearing described below.

37. The Office of the National President may make a summary decision to dismiss the charge and shall provide reasons, and may do so without a hearing or other process.

38. If it does not dismiss the charge, the Office of the National President shall investigate the charge. The Office of the National President may inquire into the facts in any way it deems appropriate. It may require the charging member or their local union to provide additional documents or submissions. It may obtain other relevant information from other sources. It may take such other steps as are necessary to make a decision.

39. The Office of the National President may decide to hold a hearing about the charge. If the Office of the National President holds a hearing about the charge, it shall decide the form of hearing that is appropriate in the circumstances. A hearing may be an oral hearing or a hearing in writing. An oral hearing may be held by video conference or in-person. If there is an in-person hearing, it shall be held in the region where the member resides.

40. Every hearing shall be informal and provide all parties a full and fair opportunity to be heard. Generally, hearings shall be based on the written record of the matter, and the arguments presented by the parties. In exceptional circumstances, the Office of the National President may, at its discretion, receive evidence from witnesses or third parties and may accept such oral or written evidence as it in its discretion considers proper

41. The accused member is entitled to an advocate to assist them in the hearing. The advocate may present arguments on behalf of the accused member. The accused member is responsible for all costs associated with the advocate.

42. The Office of the National President shall render a decision in writing which provides reasons for its decision. The decision shall be sent by email or registered mail to the accused member, the charging member, and the Local Union of the accused member.

43. Within 30 days of receiving the decision of the Office of the National President, either the accused member or the charging member may appeal the decision to the National Executive Board. The written appeal shall be sent to the Office of the National President.

44. 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.

45. The Office of the National President is responsible for arranging a hearing of the appeal by the National Appeals Committee (NAC) of the National Executive Board. The Office of the National President will provide to the NAC the full record of the charge.

46. The NAC shall decide the appeal but may not consider any new allegations that were not part of the case considered by the Office of the National President.

47. Based on the review of the record, the NAC shall decide the appeal and make a written recommendation to the National Executive Board which may:

    - Uphold the decision of the Office of the National President;
    - Overturn the decision of the Office of the National President because it is unreasonable, and substitute a decision that is appropriate in the circumstances;
    - Dismiss the charge in its entirety.

48. The decision of the NEB shall be delivered to all affected parties.

FINAL APPEAL TO THE PUBLIC REVIEW BOARD ("PRB")

49. If the accused member or charging member wishes to appeal the decision of the NEB, they must inform the Office of the National President, in writing, within 30

days of the NEB's decision. The Office of the National President shall deliver the letter of appeal and the full record to the PRB. The PRB shall not consider any new allegations that were not part of the case considered by the Office of the National President.

50. Within 120 days of receiving the appeal, the PRB shall render a decision in writing which may:

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

POLICY REVIEW PERIOD

51. This policy will be reviewed annually by the National Secretary-Treasurer's office in consultation with the Unifor Constitutional Matters Department. Any amendments to this policy must be approved by the National Executive Board.

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