



## Procedure Policy on Constitutional Matters

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C - 002	National Executive Board	Constitution

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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 to govern the implementation of Article 18 of the Unifor Constitution.

### COMMITTEE ON CONSTITUTIONAL MATTERS

1. The Committee on Constitutional Matters (the “CCM”) is appointed by the National President. The CCM will have at least two members.
2. The CCM has the right to access any information relevant to their 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. If the record, or a hearing, involves information concerning a member’s employment record or any other confidential information, this information shall be provided to the CCM in a confidential manner. The CCM will take appropriate steps to maintain the privacy of the member and the confidentiality of the information provided.
6. The CCM’s contact information will be posted on the National Union web site.

## **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, based on consideration of 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 an action with a court, civil authority or other external body before exhausting the internal Unifor Constitutional procedures.

## **REQUEST FOR REVIEW OF DECISION (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.
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. If a decision or action subject to review was made by a National Staff Representative, Director, Regional Director, Officer or by a Council or Bargaining Council or Committee, the request for review shall be sent to the “Office of the National President – CCM”.
15. The request for review shall be:
  - in writing;
  - 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 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.
16. The CCM may return the request for review if it does not meet the above criteria. If a request for review is returned, it does not extend the time limit.
  17. 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 Committee or bargaining unit committee shall conduct the review and provide a written decision.
  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.

### **REQUEST FOR FURTHER REVIEW OF DECISION (SECOND LEVEL REVIEW)**

20. The CCM is responsible for processing further (second level) reviews. A member may request a further review by notifying the "Office of the National President- CCM". This notice must be in writing and submitted within 30 days of receiving the decision by the Local Union or accountable body.
21. 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. In the same letter, the CCM will also notify the member, local union or any other respondent to forward a full record of the matter to the CCM within 21 days.
22. The record shall include all relevant information including notes, emails, motions passed at membership meetings, minutes of proceedings, and any other relevant correspondence.
23. The CCM will consider the request for review and determine if it is timely and properly submitted and carry out a preliminary investigation. The CCM may ask for written submissions, and establish a time limit for the member and/or the Local Union for the submissions.
24. The CCM may determine if a hearing is required. If the CCM decides to conduct a hearing, it may be held virtually, or in person. If there is an in-person hearing, it 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 CCM may, at its discretion, hear witnesses or third parties.

25. Lost time for the appellant or member witnesses is at the sole discretion of the Local Union.
26. 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.
27. The CCM shall make every effort to issue a written decision to all relevant parties within 30 days of concluding its investigation. The decision will be sent to all relevant parties by email or registered mail.

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

28. A member may request a further and final review to the Public Review Board by notifying the Office of the National President. The notice must be in writing and submitted within 30 days of the CCM's or National Executive Boards decision.

### **CHARGES AGAINST MEMBERS**

29. 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.
30. SPECIAL NOTE: Any alleged act of personal conduct, which constitutes harassment as defined by the National Union Ant-Harassment Policy, shall be subject to investigation and resolution under that policy and shall not be the basis for a charge. The National Union Ant-Harassment Policy is posted on the Unifor National website.
31. A charge against a member must be:
  - in writing;
  - filed within 30 days of a violation or knowledge of a violation;
  - signed by the member (or group of members) laying the charge and dated;
  - contain an email address, home mail address, phone numbers and other appropriate contact information;
  - specific in describing the basis of the charge including the 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.

32. The charge shall first be sent to the Local Union Executive Board of the accused member. The Local Union Executive Board shall make a determination if the charge is proper.
33. A charge shall be considered proper if it is timely and there are sufficient facts or information that indicates a violation of the Unifor Constitution may have taken place. An accusation, which is considered frivolous or vexatious, is not proper.
34. If the Local Union determines the charge is proper, it shall immediately inform the Office of the National President that a charge has been filed, and notify the accused by email or 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 Office of the National President. The full record includes all documents or correspondence which may be relevant.
35. If the Local Union determines the charge is improper, the Local Union will notify the member in writing. The member laying the charge may appeal the decision, provided the member gives written notice to the Office of the National President within 30 days of receipt of the Local Unions decision.
36. The appeal to the Office of the National President shall include the record of the charge sent to the Local Union. 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 member laying the charge.
37. Upon receiving the appeal, the CCM (on behalf of the Office of the National President) will inform the accused member, in writing, that a charge has been received.
38. The CCM will determine if the charge is proper based on timeliness, and information contained in the record. The CCM will also consider whether the charge may be frivolous or vexatious.
39. If the charge is deemed proper, the CCM shall notify the accused, and the member laying the charge, of any investigation it deems necessary, and whether written submissions or a hearing shall be convened. If the accused member would like to proceed to a hearing, the member must notify the CCM with 21 days.
40. If a hearing is convened, it shall be held virtually or in-person. If there is an in-person hearing, it will be held in the region where the accused member resides. A hearing shall be informal and provide all parties a full opportunity to be heard. Rules of evidence shall not apply, and the CCM may inquire into the facts in any way it deems appropriate.
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 CCM 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 member(s) laying the charge, and the Local Union of the accused member.

43. Within 30 days of receiving the CCM's decision, either the accused member or the member(s) laying the charge may appeal the decision to the National Executive Board. The written appeal shall be signed, dated and sent by email or registered mail 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 CCM will inform the National Executive Board and the NAC that an appeal will be heard. The NAC will convene a meeting at the time of the next regular National Executive Board meeting. The CCM will provide the NAC the full record of the charge.
46. The NAC shall not consider any information or allegations that was not part of the original record sent to 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 (if 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 sent by email or registered mail to all affected parties.

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

49. If the accused member or member(s) laying the charge intends 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 information or allegations that were not part of the record provided to the NEB.
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;
  - 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.

## **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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