

NEW COPE APPEAL PROCEDURE
As approved by the COPE SEPB National Executive
at its meeting held November 13, 14 and 15, 2013 in Vancouver, BC

Introduction

1. This procedure shall be adopted in conformity with the National Constitution which provides that the National Executive has the authority to adopt:
 - An appeal procedure to a final decision of a Local Union or Council.
2. Applicability of this procedure:
 - Election of any officer Local Union or Council;
 - Membership status of any member.
3. This procedure differs completely from that of internal discipline adopted by the National Executive.¹

What is Appealable

4. Any decision or action below may be subject to an appeal:
 - Election of any officer Local Union or Council;
 - Membership status of any member.

Prerequisites to an Appeal

5. A final decision has been rendered by a Local Union or Council.

¹ These two procedures have separate purposes. For instance, if a member has reasons to believe that a fraud has been committed in an officer election, they may use this procedure to demand a new election and may use the internal discipline procedure to discipline the fraudulent member. We see that the penalties are not the same.

In other words, there are three options available in the scenario outlined above:

- A complaint is filed in accordance with the appeal procedure: if the complaint is granted, there is no discipline, but a new election is ordered;
- A complaint is filed in accordance with the discipline procedure: if the complaint is granted, no new election is ordered. There are a number of penalties available (see article 6 of the internal discipline procedure). The elected officer who has been found guilty of fraud, for instance, could be suspended of their rights to hold an elected office and their office would become vacant. In that case, the office must be filled in accordance with the Constitution of the Local Union or Council.
- A complaint is filed in accordance with the appeal procedure AND a complaint is filed in accordance with the discipline procedure. In that case, the two procedures shall apply independently.

The Appeal

6. An appeal may be filed with the National Executive within twenty (20) days after receipt of the decision.
7. The appealing party must file their statement of appeal with the National President with copy to each of the interested parties. This statement must state the reasons of the appeal.
8. The defendant may file a statement of protest of the appeal in writing with the National President within ten (10) days of receipt and serve a copy to the appealing party. This statement of protest must contain the arguments and the relief requested.
9. An appeal filed in accordance with these rules will defer the decision to hold a new election. Any other appeal will not defer the imposition of any penalty.
10. If appropriate and provided the parties agree to it, the National Executive may elect to make its decision on the basis of the record. This decision is final.
11. Should the National Executive opt not to proceed as set out in the preceding in the preceding paragraph then it shall refer this appeal to an Appeals Committee consisting of one or more persons it appoints one of which at least is a member of the National Executive.
12. Before rendering a decision, the Appeals Committee will allow the parties to be heard.
13. The appointees to the Appeals Committee shall not have any conflict of interest.
14. The Appeals Committee shall hold a hearing at a suitable place and send written notice thereof which shall specify the date, time and place of the hearing to all interested parties.
15. If one of the parties does not appear at the hearing after having been duly advised and does not present any good cause for not attending, or refuses to testify, the Appeal Committee may decide to proceed with the case and render a decision.
16. The Appeals Committee shall proceed in an orderly, fair and impartial manner, in accordance with the hearing proceedings and introduction of evidence it so chooses and in accordance with the principles of natural justice and the duty of fairness.
17. The Appeals Committee may sustain, modify, or reverse the decision of the inferior body. It may make any determination that it finds just and reasonable given the circumstances of the case.
18. The Appeals Committee's recommendation is binding upon the National Executive who must render its decision accordingly.

General Provisions

19. Any documents shall be couriered, faxed, e-mailed or forwarded by bailiff.
20. In any issues, the parties shall be responsible for their own expenses and fees and have the right to be represented.
21. Time limits defined in this Procedure may be extended by the appropriate Board or Committee dealing with the appeal if reasonable grounds warrant such extension and provided that no serious prejudice to any party results from such an extension.
22. There shall be no resort to any court of law until all remedies within the National Union under its Constitution have been exhausted.
23. In the event the National President has a conflict of interest, the statement of appeal, or any other document, shall be filed with the National Secretary-Treasurer.