



2023 INTERNAL DISCIPLINE PROCEDURES

Adopted by the National Executive at its
Meeting October 29-November 1, 2007.
Amended in 2011, 2016 and at its meeting on
October 3-6, 2023.

TABLE OF CONTENTS

	ARTICLES
PREAMBLE	
I- INTRODUCTION	01 to 04
II- OFFENCES	05 to 09
III- COMPLAINT FILED AGAINST A MEMBER OR A LOCAL UNION OFFICER ACTING IN THIS CAPACITY	
Form of complaint	10 to 14
Determining whether sufficient evidence exists to establish an offence	15 to 20
Trial Committee	21 to 24
Trial	25 to 31
Decision	32 to 36
Appeal	37 to 50
IV- COMPLAINT FILED AGAINST AN OFFICER OF SEPB-QUÉBEC OR COPE ONTARIO ACTING IN THIS CAPACITY	51 to 53
V- GENERAL PROVISIONS	54
ENTRY INTO FORCE AND TRANSITIONAL MEASURES	

PREAMBLE

The “COPE Internal Discipline Procedures” was adopted by the National Executive Board in 2007 and subsequently amended in 2011 and 2016. It was adopted under articles 16.11 and 17.11 of the COPE Constitution, which expressly authorize a Local Union or Council (SEPB-Québec or COPE Ontario) to take disciplinary measures against its members.

Basically, the COPE Internal Discipline Procedures allow a member to file a complaint against another member or officer of a Local Union or Council (SEPB-Québec or COPE Ontario). Such a complaint can be filed for any violation of the Constitution of a Local Union, a Council (SEPB-Québec or COPE Ontario) or the National Union. It can also be filed against a member who engages in any activity or conduct deemed contrary or prejudicial to the welfare or best interest of the Local Union, a Council (SEPB-Québec or COPE Ontario) or the National Union. The complainant can be heard in the first instance before the Executive Committee of the Local Union or the Council (SEPB-Québec or COPE Ontario), if the complaint concerns one of its officers. Appeal rights exist up to the National Union.

The COPE Internal Disciplinary Procedures are in addition to article 14 of the COPE Constitution entitled “Prohibited Activities”. More specifically, article 14 provides for a disciplinary procedure to allow the National Executive to be seized in the first instance of a complaint alleging violation of the National Union's Constitution or any activity detrimental or contrary to the interests of the National Union. Article 14 applies in cases where the interests of the National Union are at stake. It does not apply if the complaint alleges a violation of the Constitution of the Local Union or a Council. In fact, article 14 is applicable only in exceptional circumstances.

In 2023, the National Executive Board appointed a committee to review the procedures. It was to take into consideration doctrine, jurisprudence, models developed over the years by other trade unions, but also cases that had been brought to the attention of the National Union. The review also had to be consistent with our identity as a highly decentralized Canadian trade union, where power is primarily vested in Local Unions.

As a reminder, COPE-SEPB is made up of four regions that are very different in terms of both size and geographical scope.

Region 1 (Québec) represents 15,000 workers in 11 Local Unions concentrated mainly in the Greater Montreal Area. Region 2 (Ontario) represents 6,000 workers in 18 Local Unions spread all over the province. Both regions have Councils (in accordance with article 16 of the COPE Constitution), which provide various services to their respective Local Unions and members as well. Region 3 represents approximately 2,000 workers in the Prairies, Northwest Territories and Nunavut. It has no Council and is made up of two Local Unions of uneven size. Since 2007, the COPE Internal Disciplinary Procedures apply to these three regions.

Finally, Region 4 represents 12,000 workers in British Columbia and the Yukon. It has no Council and only one Local Union, Local 378, better known as Move UP. Due to its large size and unique structure, it has a disciplinary procedure set out in its own Constitution. As a result, the present Procedures do not apply to Region 4.

Following the committee's work and recommendations, the new amended Procedures were adopted by the National Executive Board in accordance with the COPE Constitution effective January 1st, 2024. It will replace all previous versions of the COPE Internal Discipline Procedures. However, any complaints or appeals filed prior to January 1st, 2024 shall continue to follow the previous version of this policy.

I- INTRODUCTION

- 01- The purpose of the Internal Discipline Procedures is to provide members an internal process to make complaints against other members dealt with in a fair and impartial manner. Those Procedures do not apply to Region 4.
- 02- The Internal Discipline Procedures are not to be used for political gain or to resolve interpersonal conflict which does not have a foundation in one of the enumerated offences.
- 03- In addition, the Procedures introduce the principle of mediation, which should resolve many disputes. Problems are often best resolved when members can discuss them in a mediation setting.
- 04- Finally, the Procedures expressly specify several fundamental rights, including the following:
 - a) Respondents have the right to know the complaint against them and if necessary to have particulars of the complaint;
 - b) Parties must be given reasonable notice of the hearing date, time, and location of the complaint. A hearing may be held in person or online and will be conveyed to both parties in advance;
 - c) The hearing must be conducted in substantial compliance with the intent and purpose on the Local union constitution and the National constitution;
 - d) The complainant bears the burden of proof;
 - e) The right to call evidence, introduce documents, cross-examine witnesses, and make submissions;
 - f) The right to a hearing conducted in good faith and without actual bias;
 - g) The Trial Committee shall not be bound by the strict rules of evidence; however, any verdict reached must be based on the evidence presented and not be influenced by any matters outside the scope of the evidence;
 - h) The right to be represented by an advocate or legal counsel at their own expense;
 - i) All proceedings shall be conducted with appropriate decorum and respect for the process.

II- OFFENCES

- 05- A Member who does any of these acts is guilty of an offence to the COPE or Local Union constitution:
- a) Commits acts which are detrimental to the welfare of the Local Union or COPE;
 - b) Violates any provision of the Constitution of the Local Union or the Constitution of the National Union;
 - c) Violates any provision of any Bylaws;
 - d) Violates the oath of office;
 - e) Reveals confidential information about the Local Union or COPE to anyone not entitled to such information;
 - f) Crosses a union picket line;
 - g) Commits fraud or misrepresentation in connection with a Local Union, COPE, or an election;
 - h) Steals any property of the Local Union or COPE;
 - i) Becomes a member by dishonesty or misrepresentation;
 - j) Helps any organization competing with the Local Union or COPE in a way that is harmful to the Local Union or COPE;
 - k) Uses the name of the Local Union or COPE to request monies or to advertise without proper authorization;
 - l) Without proper authorization, gives a complete or partial list of the membership of the Local Union to anyone who is not an official entitled to this information.
- 06- In any case involving disciplinary action, there shall be no resort to a court of law until such recourse within those Procedures has been exhausted.
- 07- The following Procedures are inapplicable to any matter involving delinquency or failure to pay dues. Any local Union may provide in its constitution or bylaws for automatic suspension of any member who is delinquent in their obligations.
- 08- Time limits defined in these Procedures may be extended by the body dealing with the complaint or appeal if reasonable grounds warrant such extension and provided that no serious prejudice to any party results from such an extension.
- 09- In the event the President has a conflict of interest, the complaint and any other documents shall be filed with the Secretary-Treasurer.

III- COMPLAINT AGAINST A MEMBER OR A LOCAL UNION OFFICER ACTING IN THIS CAPACITY

Form of Complaint

- 10- Any proceeding shall commence with a complaint filed by the complainant in writing with the Local Union President, within sixty (60) days of the date of the alleged violation or of being aware of the alleged violation, who shall then submit it to the Local Union Executive Board. The President shall also notify in writing by mail or email the charged member that a complaint has been filed, with a copy of such complaint and any related documents attached to the complaint.
- 11- All complaints include the following:
 - a) The name and bargaining unit of the complainant and of the charged member or the local union officer (the respondent);
 - b) The provisions of the Local Union constitution or bylaws or COPE Constitution which are alleged to have been violated;
 - c) The date or dates and details of the circumstances of each alleged offence;
 - d) A detailed statement of the facts describing each alleged violation, with a list of confirmed witnesses and documents the complainant intends to rely upon; and
 - e) The printed name and the signature of the person filing the complaint.
- 12- The following are entitled to file complaints:
 - A member or an officer of the Local Union;
 - An officer of the National Union.
- 13- In cases of urgency where the reasonable interests of the National Union require immediate action, the National President may suspend any member or any officer of a Local Union. Such a suspension shall be followed by a written complaint filed by the complainant in writing to the Local Union president within thirty (30) days following the date of the suspension and the Local Union president shall deal with it in accordance with the procedure.
- 14- The respondent shall have the right to contest such complaint in writing by transmitting their statement to the Local Union President within fifteen (15) working days of the complaint being mailed or emailed to the respondent. The Local Union President shall transmit such statement, including any applicable documents received from the respondent to the Local Union Executive Board with a copy to the complainant.

Determining whether sufficient evidence exists to establish an offence.

- 15- It is within the power of the Local Union Executive Board to decide, at its next meeting, to:
 - a) Designate an investigator who is charged with collecting facts, obtaining copies of all pertinent documents and reporting to the Local Union executive board;
 - b) Designate a mediator to try to settle the complaint;
 - c) Determine that a trial committee must be appointed;
 - d) Dismiss the complaint as unwarranted; or
 - e) Any combination of these four options.
- 16- The costs of the investigation or the mediation are borne by the Local Union where the complaint originates. If the investigator or the mediator is a Union Representative or an officer of SEPB-Québec or COPE Ontario, the applicable council shall assume the related costs.
- 17- The complainant, the respondent, and material witness(es) shall refrain from participating in the Local Union Executive Board's disposition of the complaint.
- 18- Written notification of any action taken shall be sent to the complainant and the respondent within fifteen (15) working days following the decision of the Local Union Executive Board.
- 19- The Complainant may appeal in writing to the National President the decision that dismissed the complaint within fifteen (15) working days of receipt. The National President, upon receipt of an appeal, will determine if the appeal is warranted or not.
- 20- The appeal process provided for in articles 41 to 48 shall apply with all appropriate adaptations being made.

Trial Committee

21- Regions 1 and 2

Where the matter has not been settled through mediation and if a decision has been made to appoint a trial committee, the President of the Local Union must transmit the complaint, the statement of the Respondent, any applicable documents, and the decision of the Local Union Executive Board to the Executive Director of SEPB-Québec or the Director of COPE Ontario who, after consultation with the President of the Council, shall appoint three persons, at least two of which are members from any local in the region to serve as the trial committee. Wherever possible, the three persons from the trial committee shall not come from the local or locals involved in the original complaint and/or response. The Executive Director or Director shall appoint the Chairperson. The Executive Director in Region 1 or the Director in Region 2 may appoint someone at their Local's cost, to guide the tribunal and provide support and advice on procedural matters.

22- Region 3

Where the matter has not been settled through mediation and in the event that a decision has been made to appoint a Trial Committee, the President of the Local Union must transmit the complaint, the statement of the Respondent, any applicable documents, and the decision of the Local Union Executive Board to the National President who, after consultation with the Vice Presidents of the National Union of Region 3, shall appoint three persons, at least two of which are members from any local in the region to serve as the trial committee. The National President shall appoint the Chairperson.

23- The applicable president of the Local may appoint someone at their Local's cost, to guide the tribunal and provide support and advice on procedural matters.

Trial

24- The Chairperson of the Trial Committee shall convene a teleconference with the Complainant and Respondent and their respective representatives, if applicable, to deal and rule with preliminary matters concerning the trial including procedural questions.

25- The Trial Committee shall hear and receive evidence in accordance with the following principles:

- a) Respondents have the right to know the complaint against them and if necessary to have particulars of the complaint;
- b) Parties must be given reasonable notice of the hearing date, time, and location of the complaint. A hearing may be held in person or online and will be conveyed to both parties in advance;
- c) The hearing must be conducted in substantial compliance with the intent and purpose of the Local Union Constitution and the National Constitution;

- d) The Complainant bears the burden of proof;
 - e) The right to call evidence, introduce documents, cross-examine witnesses, and make submissions;
 - f) The right to a hearing conducted in good faith and without actual bias;
 - g) The Trial Committee shall not be bound by the strict rules of evidence; however, any verdict reached must be based on the evidence presented and not be influenced by any matters outside the scope of the evidence;
 - h) The right to be represented by an advocate or legal counsel at their own expense;
 - i) All proceedings shall be conducted with appropriate decorum and respect for the process.
- 26- The Trial Committee shall make the necessary arrangements to have a recording of the hearing.
- 27- The Trial Committee must act with all three members. If a member of the Trial Committee cannot fulfill their duties, the matter is referred to the National President to either replace the Trial Committee member or to proceed with only two members of the Committee. Whenever possible, a new Committee member should be appointed unless to do so would result in an undue delay in the process.
- 28- The costs of conducting a trial shall be borne by the Local Union.
- 29- The parties shall be responsible for their own costs, including the costs for any witnesses, representatives, or evidence.
- 30- If either the complainant or the respondent does not attend the hearing, the Trial Committee may dismiss the complaint, adjourn the hearing, or hold the hearing and decide the complaint in their absence.

Decision

- 31- Upon the conclusion of the hearing, the Trial Committee shall, as soon as practicable, decide whether the complaint has been proven, and if the offence(s) for which they have been charged has been sustained. It will require a majority of the members of the Trial Committee to arrive at a decision.
- 32- Should the Trial Committee sustain the charge(s), it then shall determine the appropriate level of discipline. If appropriate the Trial Committee may seek further submissions from the parties before imposing any discipline.
- 33- Discipline may include, but is not limited to any of the following:
- a) Reprimand in writing;
 - b) Fine;

- c) Suspension from membership for a specified period;
 - d) Suspension of the right to hold office for a specified period;
 - e) Prohibition from holding office;
 - f) Expulsion from membership;
 - g) Reimbursement of any monetary losses;
 - h) Expenses incurred by the complainant, respondent, or Local Union;
 - i) Any other disciplinary measures the Trial Committee deems appropriate; or
 - j) Any combination of the foregoing penalties.
- 34- Each member of the Trial Committee signs the decision, and the Chairperson forwards it to the Local Union Executive Board and the parties. A dissenting member may indicate that they are dissenting and explain why. The written decision will set out detailed reasons for the Trial Committee's findings. The Chairperson will also provide the entire file including any audio or video recordings of the hearing to the Secretary-Treasurer of the Council for Regions 1 and 2, and to the National Secretary-Treasurer for Region 3. The recording and all applicable documents of the trial shall be secured and saved for not less than three years from the date of decision.
- 35- The Local Union Executive Board is bound by the written findings of the Trial Committee and shall render its decision accordingly.

Appeal

- 36- Within thirty (30) days of the date the Local Union Executive Board decision is received, either party may appeal to the COPE National Executive Board in writing to the National President setting forth the grounds for appeal, with a copy to the other party. The opposing party has thirty (30) days to present their views in writing to the National President, with a copy to the appealing party.
- 37- The written appeal will set out:
- a) The part or parts of the decision that are being appealed;
 - b) The date on which the decision was reported to the appellant;
 - c) The reasons for the appeal and all applicable documentation and names of witnesses required to support their appeal;
 - d) Whether the appellant wants a hearing or wants to make submissions in writing;
 - e) the remedy requested by the appellant.

- 38- An appeal filed in accordance with these rules will not defer the imposition of any penalty. A request for the suspension of any penalty must state the reasons supporting the request and shall be filed with the National President with a copy to the opposing party, who may choose to contest. The National Executive Board shall decide, at its next meeting, on the validity of the request based on the documents presented in support of the request. Suspension of a penalty pending the appeal process may be granted by the National Executive Board to avoid serious or irreparable injury to the appellant, or a situation of such a nature as to render the judgment in appeal ineffectual. The respondent to the appeal shall be provided an opportunity to express their position on the request for a penalty suspension. This decision of the National Executive Board on whether to suspend a penalty, pending the appeal shall be final until such time that the appeal panel has ruled.
- 39- The appellant shall send the appeal to the National President by registered mail or by email, send a copy to the responding party, and to the Secretary Treasurer of the Council in Region 1 or 2, or the National Secretary Treasurer for Region 3, who shall then send a copy of the recording and all applicable documents of the trial to both the appellant, the respondent, and the National President.
- 40- The National President shall appoint three persons, at least two of which are members of the National Executive Board to be the Appeal Panel. The National President shall determine who will be the Chairperson of the Appeal Panel.
- 41- The Appeal Panel shall determine its own procedures and give the parties an opportunity to present their case and make submissions on the issues in the appeal.
- 42- If a party requests a hearing, the Appeal Panel shall determine whether the appeal will take place in person or online or a combination thereof, and the way in which the appeal shall proceed.
- 43- Any notice is sent by registered mail or by email.
- 44- The parties have the right to be represented at the appeal at their own expenses.
- 45- The costs of conducting the appeal are borne by the National Union. The National Union is not responsible for the costs of the parties.
- 46- The Appeal Panel can confirm or set aside the decision of the Local Union Executive Board and can confirm, amend, or set aside any penalty or order made by the Local Union Executive Board.

- 47- The Appeal Panel shall make its decision within ninety (90) days of the completion of the hearing or written submissions. Each member of the Appeal Panel shall sign the decision, and the Chairperson forwards it to the National President who shall share the results with the National Executive Board. A dissenting member may indicate that they are dissenting and explain why. The written decision will set out detailed reasons for the Appeal panel's findings. The Chairperson will also provide the entire file including any audio or video recording of the hearing or any dissent to the National Secretary-Treasurer. Once the National Executive Board has reviewed the Appeal Panel's decision, the National President will forward it to the appellant, respondent, the Council President and/or the Local Union President.
- 48- The National Executive Board is bound by the written findings of the Appeal Panel and shall enforce the decision. The decision of the National Executive Board is final and binding.

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IV- COMPLAINT AGAINST AN OFFICER OF SEPB-QUÉBEC OR COPE ONTARIO ACTING IN THIS CAPACITY

- 49- The provisions of Part IV apply with all appropriate adaptations being made and with the following accommodations:
- a) The term "Local Union" shall be replaced by "SEPB-Québec." or "COPE Ontario";
 - b) The term "Local Union President" shall be replaced by "SEPB-Québec President" or "COPE Ontario President";
 - c) The term "Local Union Executive Board" shall be replaced by "SEPB-Québec Executive Board" or "COPE Ontario Executive Board".
- 50- Where the matter has not been settled through mediation and in the event that a decision has been made to appoint a Trial Committee, the president of SEPB-Québec or COPE Ontario shall transmit the complaint, the statement of the respondent, all applicable documentation and witness information, and the decision of the SEPB-Québec or COPE Ontario to the National President who, after consultation with the Vice Presidents of the National Union for the applicable Region, will appoint three persons, at least two of which are members from any Local Union in the Region to serve on the Trial Committee. Wherever possible, the three persons for the Trial Committee shall not come from the Local or Locals involved in the original complaint and/or response. The National President shall determine who will be the Chairperson.
- 51- The Executive Director of the SEPB-Québec or the Director of COPE Ontario may appoint someone to guide the tribunal and provide support and advice on procedural matters. In this instance, the costs associated with this assistance shall be borne by the applicable Council.

V- GENERAL PROVISIONS

- 52- Any matter not provided for herein and affecting its implementation shall be referred to the National President by the Chairperson of the Trial Committee or by the Chairperson of the Appeal Panel.

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ENTRY INTO FORCE AND TRANSITIONAL MEASURES

Any proceedings that have been initiated by virtue of the March 2016 edition of the “COPE internal discipline procedures” shall continue to be governed by the 2016 edition and as _____, any new proceedings shall be initiated in conformity with the 2023 amended edition of the “COPE Internal Discipline Procedures”.

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