



Canadian Office and Professional Employees Union

APPEAL PROCEDURE FOR FINAL DECISIONS OF LOCAL UNIONS AND/OR COUNCILS

Preamble

This Appeal Procedure (hereinafter "the Procedure") is distinct from the Internal Discipline Procedure (hereinafter "IDP"), as it can only be invoked for challenging the election of an Officer of a Local (or Council) or the status of a member (or the denial of a membership). The outcomes are not the same.

If they believe that a fraud has been committed in the election of an officer, a member may use the Procedure to challenge the results and force a new election to be held. Its sole focus is whether the integrity of the electoral process was breached or not. No individual is sanctioned per se. With the IDP, a complaint could also be filed against member(s) or officer(s) involved in that very election. In that case, one seeks sanctions against people who may have committed an offence during the election.

If their status is contested or if their membership has been denied by their Local, a member may use the Procedure. A denial of status may be more of an administrative matter that requires correction of the appropriate membership status (active, non-active, associate or honorary). On the other hand, a denial of membership altogether demands "for just and sufficient cause" and that burden of proof is borne by the Executive Board of the Local Union. A member could also use the IDP to file a complaint against one or many officers who misassigned or denied the membership. Again, the outcomes are not the same. The Procedure seeks to correct an error, while the IDP seeks to sanction one or many officers officer(s) involved with the alleged error.

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 of a Local Union or Council;
 - Status of any member, including denial of membership as per the National Constitution.
3. This procedure differs completely from that of the IDP adopted by the National Executive.

Prerequisite to an Appeal

4. A final decision must have been rendered by a Local Union or Council according to the applicable constitution.

The Appeal

5. An appeal may be filed with the National Executive within twenty (20) days after receipt of the final decision.
6. The appealing party must file their statement of appeal with the National President with a copy to each of the interested parties. This statement must state the reasons for the appeal.
7. 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.
8. If an appeal is filed regarding the call for a new election, the new election shall be deferred during the appeal period.
9. If an appeal is filed regarding the status of a member, including denial of membership, the decision of the Local Union and/or Council may be deferred during the appeal. The National President shall decide whether to defer the decision of the Local Union and/or Council.
10. If appropriate and provided the parties agree to it, the National Executive may elect to make its decision based on the record. This decision is final.

11. Should the National Executive opt not to proceed as set out 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, 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.