

RULES OF PROCEDURE OF THE JUDICIAL PANEL



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AFSCME JUDICIAL PANEL RULES OF PROCEDURE

PREAMBLE

These *Rules of Procedure* are adopted for the purpose of carrying out the functions and responsibilities of the AFSCME Judicial Panel, a body established by the International Constitution for the purpose of resolving internal union disputes.

In adopting these *Rules*, the Judicial Panel recognizes that it is not a court of law. The Judicial Panel is a part of AFSCME, which, by definition, is a trade union. The members of the Judicial Panel, like their brothers and sisters in AFSCME, are first and foremost trade unionists. The members of the Judicial Panel are united in their belief that disputes between AFSCME members involving AFSCME's Constitution can, and should be, resolved within the Union, in a manner consistent with trade union principles and without resort to courts and lawyers.

AFSCME's procedures for the resolution of internal union disputes are designed to allow rank-and-file union members to represent themselves without having to incur the cost of outside counsel.

ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms when used in these *Rules* shall have the meanings set forth below:

SECTION 1 “International Union” shall mean the American Federation of State, County and Municipal Employees.

SECTION 2 “International Constitution” shall mean the Constitution of the American Federation of State, County and Municipal Employees.

SECTION 3 “Judicial Panel” or “Panel” shall mean the body established and described in Article XI of the International Constitution.

SECTION 4 “Panel Chairperson” or “Chairperson” shall mean the Chairperson of the Judicial Panel.

SECTION 5 “Panel Member” or “member of the Panel” shall mean any member of the Judicial Panel, including its Chairperson.

SECTION 6 “Subordinate Trial Body” shall mean the trial body of any local union or of any council, as described in the International Constitution or in the approved constitution of the local or council.

“Trial Officer” shall mean a member of the Judicial Panel appointed by the Panel Chairperson under the provision of Article XI, Section 8, of the International Constitution. SECTION 7

“Chairperson of a Trial Body” shall mean a member of the Judicial Panel appointed to serve as chairperson of a trial body established under the provisions of Article XI, Section 9, of the International Constitution. SECTION 8

“Administratorship Hearing Board” shall mean the one, two or three members of the Judicial Panel appointed under the provisions of Article IX, Section 39, of the International Constitution. SECTION 9

“Investigating Committee” shall mean the one, two or three members of the Panel appointed under the provisions of Article IX, Section 44, of the International Constitution. SECTION 10

“Investigating Officer” shall mean a member of the Judicial Panel who has been designated by the Panel Chairperson to investigate and decide a challenge or protest arising out of a subordinate body election under the provision of the *Elections Code*, Appendix D, Section 4, sub-section D, of the International Constitution. SECTION 11

ARTICLE II

MEMBERSHIP AND ORGANIZATION

- SECTION 1 The Judicial Panel consists of eleven members of the Federation, one of whom is designated by the International President as Chairperson at the time of appointment. The Chairperson performs the administrative duties set forth in Article XI of the International Constitution.
- SECTION 2 The terms of appointment of members of the Judicial Panel shall be as established in Article XI, Sections 1 and 3, of the International Constitution.
- SECTION 3 The members of the Judicial Panel shall periodically designate one of their members to serve as Vice-Chairperson of the Panel. The Vice-Chairperson shall, at the request of the Chairperson, during the temporary absence of the Chairperson or during the Chairperson's temporary inability to serve, carry out the duties of the Chairperson.
- SECTION 4 In all matters requiring action by the Judicial Panel as a whole, a majority of the total membership shall constitute a quorum for conducting business.
- SECTION 5 All communications to the Judicial Panel shall be directed to the Chairperson and sent to International Headquarters; except that any member

who has been assigned to serve as a Trial Officer, as Chairperson of a Trial Body, as an Investigating Officer, or as Chairperson of an Administratorship Hearing Board or an Investigating Committee may direct that matters connected with the case be sent directly to such member.

Meetings of the full Judicial Panel shall be held on the call of the Chairperson or on the call of a majority of the Panel Members. SECTION 6

ARTICLE III

GENERAL PROVISIONS

No member of the Judicial Panel shall participate in any manner in the decision in any case of any kind arising in a local of which such Panel Member is a member. SECTION 1

No member of the Judicial Panel shall participate in any manner in the decision of the case of any kind, which originates at the council level in a council with which such Panel Member's local is affiliated. SECTION 2

Any member or members of the Judicial Panel may voluntarily disqualify themselves from participation in any particular case by written notification to the Panel Chairperson, and such SECTION 3

written notification need not state the reason for such voluntary disqualification.

SECTION 4 Any Panel Member who is disqualified under any of the above sections may not, should such case later come before the full Judicial Panel for review or on appeal, participate in the consideration or decision in such case. No Panel Member disqualified under any of the above sections shall discuss such case with any other member of the Panel unless it be as a witness under oath.

SECTION 5 No Panel Member whose decision is appealed to the full Judicial Panel shall participate in the Judicial Panel's consideration of the appeal.

SECTION 6 Insofar as practical, the Panel Chairperson shall avoid assigning cases for hearing or investigation to Panel Members where the subordinate body involved is in the Panel Member's own Legislative District, as defined in the International Constitution.

SECTION 7 No trial in which a member of the Judicial Panel is either the person bringing the charge or the accused person shall be considered or heard by the Judicial Panel or its members. In the event such a case is filed with or appealed to the Judicial Panel, the Panel Chairperson shall refer the case to the International President and shall notify both the person bringing

the charge and the accused person that this has been done.

With due recognition for Panel Members' availability, travel distances and other relevant factors, the Panel Chairperson shall be responsible for fairly distributing among the members of the Panel cases and other matters reaching the Judicial Panel. SECTION 8

The original decision in every case coming before the Judicial Panel, whether heard by a single member, a multi-member body, or the full Panel, shall be filed with the Judicial Panel Chairperson who shall be responsible for maintaining the current files of the Judicial Panel. The Judicial Panel Chairperson shall be responsible for reproducing the decisions and for distributing them as required by the International Constitution. SECTION 9

All decisions of the Judicial Panel or its members shall be effective when issued unless: (a) the decision provides for a different effective date; or (b) the decision is stayed in accordance with the International Constitution. SECTION 10

Attendance at Judicial Panel hearings shall be limited to members and attorneys representing accused or charging parties, or parties to an election protest or challenge; provided, however, that SECTION 11

no attorney may participate in any Judicial Panel hearings if the attorney or their law firm represents interests that are inconsistent with the interests of AFSCME or its members.

ARTICLE IV

TRIALS: GENERAL PROCEDURES

SECTION 1 Trial Officers shall be selected in accordance with the procedures set forth in Article XI, Section 8, of the International Constitution. The Judicial Panel Chairperson shall send a list of the names of the Judicial Panel Members to the accuser and the accused. Within fifteen (15) days thereafter, each party shall be afforded the opportunity to delete not more than two names from the list of Judicial Panel Members, by written notification to the Judicial Panel Chairperson. The Chairperson shall accept the first received deletions from each side and then, from the names remaining, appoint one member of the Judicial Panel to serve as the Trial Officer.

SECTION 2 It shall be the duty of the Trial Officer to conduct hearings in an impartial and orderly manner. The Trial Officer shall have the authority, subject to other provisions of these *Rules* and the International Constitution:

- A. To administer oaths and affirmations;
- B. To issue administrative requests to appear to any witness;
- C. To rule on all procedural matters, objections and motions;
- D. To rule on all offers of proof and receive relevant evidence;
- E. To interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter under consideration; and
- F. To secure and present in an impartial manner such evidence, in addition to that presented by the parties, as the Trial Officer deems necessary to fairly and equitably decide the matter under consideration.

The technical rules of evidence shall not apply to the proceedings of the Judicial Panel. The Trial Officer shall have complete discretion concerning the admissibility of evidence. SECTION 3

These *Rules* shall be liberally construed and the Judicial Panel may, in its discretion, modify, waive or supplant any of these *Rules* in any par-

ticular case, but only to the extent necessary to accomplish the purposes for which the Judicial Panel was established.

SECTION 4 In any case involving a novel or original interpretation of the International Constitution, the responsible member or members of the Judicial Panel shall inform the Chairperson immediately and the Chairperson shall refer the question to the International President for determination.

SECTION 5 In computing any period of time prescribed or allowed by these *Rules*, the date of receipt of any document shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day, which is not a Saturday, Sunday or a legal holiday.

SECTION 6 During the pendency of the case, it shall be the responsibility of each party to inform the Chairperson and the member hearing the case immediately in writing of any change or error in such party's address and personal email address.

SECTION 7 Copies of the decisions in any trial shall be served by certified mail, return receipt requested, and emailed to the accuser and the accuser's counsel of record, to the accused and the accused's counsel of record, and to the secretary of any subordinate trial body or

bodies, which have previously heard the case. In addition, copies shall be distributed to each member of the Judicial Panel, the International President and the International Secretary-Treasurer.

The accused person in any trial shall have the right to choose either an open or closed hearing, in accordance with the provisions of Article X, Section 12, sub-section M, of the International Constitution. Should the accused choose an open hearing, the Trial Officer shall nonetheless bar from the hearing room all persons who are not members of the Union except (1) any attorney acting as counsel to the accused person or the person bringing the charge and (2) any person who is to testify as a witness in the trial. Individuals who are not AFSCME members may not represent accused or charging parties or attend the hearing. No attorney may represent accused or charging parties if the attorney or their law firm represents interests that are inconsistent with the interests of AFSCME or its members. The Trial Officer shall, at all times, have the authority to order the removal and the subsequent barring from the hearing of any person who causes or participates in any disruption of the proceedings or who refuses to maintain proper decorum.

SECTION 8

Should the accused person choose a closed hearing, only the Trial Officer or Officers, the reporter, the charging party, the accused person, the charging

party's and the accused person's attorney or the member representing the charging party or the accused person shall be permitted continuous presence in the hearing. Any witness called by either party or by the Trial Officer or Officers shall be present in the hearing only while giving testimony.

SECTION 9 The person bringing the charge shall present the evidence in support of such charge. Following such presentation, the accused person shall be afforded the opportunity to present a defense. The rights of the accused person set forth in Article X, Section 12, of the International Constitution and the rights of the person bringing the charge set forth in Article X, Section 13, of the International Constitution shall be observed at all times.

SECTION 10 A verbatim transcript of the proceedings shall be made under the direction of the Trial Officer. Any party may obtain a copy of the transcript by purchasing a copy from the reporter and paying the cost thereof as determined by the reporter. The reporter shall attach an affidavit stating that it is a true and accurate record of the evidence taken at the hearing.

SECTION 11 For the purpose of applying the time limit for the issuance of trial body decisions as provided in Article X, Section 18, of the International Constitution, a trial shall be deemed to be com-

pleted (1) when the transcript of the trial is received by the Trial Officer after the closing of the hearing, (2) upon the filing of any post-hearing evidence as authorized or directed by the Trial Officer or (3) upon the filing of all post-hearing briefs as authorized or directed by the Trial Officer, whichever is later.

At the discretion of the Chairperson, a trial may be conducted virtually provided the platform utilized allows for full participation in accordance with these *Rules*. Prior to convening a virtual trial, a conference may first be convened for the purpose of ensuring the interested parties are able to utilize the virtual platform, provide for the submission of exhibits or other documentation, and attend to any other administrative matters requiring advance preparation.

SECTION 12

ARTICLE V

TRIALS: APPEALS FROM SUBORDINATE TRIAL BODIES

An appeal from the decision of a subordinate trial body shall be filed with the Judicial Panel within thirty (30) days following the date of the decision. The appeal shall be in writing and shall be accompanied by a copy of the original charge and the decision that is being appealed.

SECTION 1

The appeal shall set forth in substance the appellant's reasons for believing the trial body was in error and the nature of the error.

SECTION 2 Upon receipt of the appeal, the Chairperson of the Judicial Panel shall make an initial determination as to whether or not the matter is properly before the Judicial Panel. Should the Chairperson find that the appeal has not been filed in a timely fashion, as required by the International Constitution, such appeal shall be summarily rejected; provided, however, that if the Panel Chairperson finds that there were compelling mitigating circumstances, which caused the delay, the Chairperson may hold that the appeal is properly before the Panel. Any such summary decision by the Chairperson may be appealed within thirty (30) days thereafter to the full Judicial Panel.

SECTION 3 Should the Chairperson find that the original charge, which is part of the appeal, is not sufficiently specific and detailed, the Chairperson shall notify both the accused and the accuser of such finding and shall allow the accuser an additional period, not to exceed fifteen (15) days in which to make the charge more specific. If, at the end of such additional period, there is not a pending charge which meets the standards of specificity set forth in Article X, Section 6, of the International Constitution, the Chairperson may

dismiss the charge and set aside any decision or penalty that may have been set by any Subordinate Trial Body; provided, however, that any such action on the part of the Chairperson may be appealed within thirty (30) days thereafter to the full Judicial Panel.

Upon finding that the appeal is properly before the Panel, the Chairperson shall appoint a Trial Officer in the manner provided in Article XI, Section 8, of the International Constitution. SECTION 4

The Trial Officer shall establish the date, time and place for the hearing, which may be conducted virtually, and shall notify the parties at least fifteen (15) days in advance of such hearing. SECTION 5

The trial shall be conducted in accordance with the provisions of the International Constitution and Article IV of these *Rules*. SECTION 6

Where the Trial Officer hearing the case desires to consider all or any portion of any written record made before a subordinate trial body, the Trial Officer shall so inform the accused person and the person bringing the charge, and shall enter the matter into the record. SECTION 7

The Trial Officer may grant the parties the right to file briefs subject to such time limitations as the Trial Officer considers reasonable under the circumstances. SECTION 8

SECTION 9 The decision shall be in writing and shall conform with the provisions of Article XI, Section 12, of the International Constitution.

ARTICLE VI

ORIGINAL TRIALS

SECTION 1 The Judicial Panel shall have original jurisdiction and shall conduct original trials under the following circumstances:

- A. If the accused person is the International President or the International Secretary-Treasurer, the entire Judicial Panel shall serve as the trial body.
- B. If the accused person is an International Vice President, the Judicial Panel Chairperson shall appoint three members of the Judicial Panel to serve as the trial body. The appointments shall be done in the manner provided in Article XI, Sections 8 and 9, of the International Constitution.
- C. If the accused person is an officer or staff employee of a subordinate body, who, at the time such charges are filed, is under suspension by the International President under

the provisions of Article V, Section 13, of the International Constitution.

- D. If the accused person is a member who has been removed as an officer or staff employee of a subordinate body during an administratorship of said subordinate body, which administratorship is in effect at the time such charges are filed.

Except as provided in Section 3 of this Article, the Judicial Panel, upon the request of a directly interested party, shall accept original jurisdiction and shall conduct original trials in cases filed at the local or council level, and shall accept appeals from local trial bodies, which would normally have been appealed to a council trial body in the following circumstances if: SECTION 2

- A. The accused person has been suspended by the executive board of a subordinate body under the provisions of Article IX, Section 48, of the International Constitution.
- B. The accused person or persons and the person or persons bringing the charge, together, make up a majority of the membership of the executive board or other constitutionally specified trial body of the subordinate body.

- C. The Chairperson of the Judicial Panel is convinced, after offering the other party to the case the opportunity to present a written statement on the matter, that (1) substantial rights of either the accused person or the person bringing the charge will be lost or seriously jeopardized if the Panel does not accept original jurisdiction or (2) that the likelihood of a fair trial under all the known circumstances is remote.

SECTION 3 In any situation in which the Judicial Panel would have original jurisdiction over a case arising at the local level, the Judicial Panel or the Judicial Panel Chairperson may direct that the case first be heard at the council level.

ARTICLE VII

APPEALS FROM REBATE DETERMINATIONS

SECTION 1 An appeal from a determination as to the proportional allocation of dues payment or service fee payment, which is subject to rebate under Article IX, Section 14, of the International Constitution may be heard by the full Judicial Panel or by an appeals body consisting of one or more members of the Judicial Panel designated for that purpose by the Chairperson of the Judicial Panel.

An appeal described in Section 1 above must be filed in writing with the Chairperson of the Judicial Panel within fifteen (15) days of receipt of the rebate check from which appeal is made. SECTION 2

The Chairperson of the Judicial Panel shall fix the date, time and place for the appeal hearing, and whether to conduct the hearing in person or virtually, in such manner as to afford the maximum convenience to both the person or persons taking the appeal and the International Union or subordinate body practical under all circumstances. SECTION 3

The person or persons taking the appeal and the International Union or subordinate body shall have the right to have at least fifteen (15) days' advance notice of the date, time and place of the appeal hearing. SECTION 4

Sections 2, 5, 6 and 12 of Article IV of these *Rules*, entitled "Trials: General Procedures," are hereby incorporated by reference as part of this Article. SECTION 5

A verbatim transcript of the proceedings shall be made under the direction of the Chairperson of the Judicial Panel or other presiding Panel Member. Any party may obtain a copy of the transcript by paying the cost thereof. The reporter shall attach an affidavit to each copy of the transcript stating that it is a true and accurate record of the evidence taken at the appeal hearing. SECTION 6

SECTION 7 The person or persons taking the appeal and the International Union or subordinate body shall have the following rights:

- A. The right to counsel;
- B. The right to present witnesses;
- C. The right to cross-examine witnesses;
- D. The right to file written briefs;
- E. The right to make oral argument on the record at the appeal hearing; and
- F. The right to compel the production of such union records as are pertinent to the appeal.

SECTION 8 The Judicial Panel or the appeals body hearing the appeal, upon the request of a party or on the initiative of the Panel or appeals body, shall request the appearance of necessary witnesses and the production of relevant documents.

SECTION 9 The International Union or the subordinate body whose rebate allocation has been challenged shall present its case first. Following such presentation, the person or persons taking the appeal shall present the case for the challenge.

The Chairperson of the Judicial Panel shall have the authority to consolidate as a single hearing all appeals involving the International Union or any single subordinate body. SECTION 10

The decision of the Judicial Panel or the appeals body shall contain findings of fact and conclusions of law. Said decision shall be issued within a reasonable time after the appeals hearing is closed or written briefs have been filed, whichever is later. SECTION 11

When an appeal has been heard by an appeals body, the person or persons taking that appeal shall have the option of a further appeal to the full Judicial Panel of the decision of the appeals body. Any such further appeal must be taken within ten (10) days of receipt by the appellant of the decision of the appeals body. Such further appeal shall be on the record made before the appeals body, although any party may file a written brief within such time period as may be fixed by the Panel Chairperson. The decision of the full Judicial Panel shall be issued promptly. SECTION 12

ARTICLE VIII

APPEALS TO FULL PANEL AND INTERNATIONAL CONVENTION

SECTION 1 Any decision made by a Trial Officer or a three-member Trial Body may be appealed by any directly interested party to the full Judicial Panel. Notice of such an appeal shall be postmarked or submitted electronically with the Judicial Panel within thirty (30) days following the date of the decision which is being appealed, as required by Article XI, Section 14, of the International Constitution. Any decision made by an Investigating Officer concerning a candidate's eligibility or on an election protest may be appealed to the full Judicial Panel. The appeal of such a decision shall be filed within ten (10) days, as required by Appendix D, Section 4, sub-section E, of the International Constitution. All notices of appeal shall be in writing and shall set forth in substance the appellant's reasons for believing the original decision was in error and the nature of the error.

SECTION 2 The Chairperson of the Judicial Panel shall designate the date, time and place for consideration of the appeal and whether the appeal shall be heard virtually or in person, and shall notify the parties in writing at least fifteen (15) days prior to the date for consideration of the appeal.

Appeals to the full Panel shall ordinarily be considered on the basis of the record, supplemented by such written briefs or other documents as the parties may wish to submit. Oral argument may be permitted by the Judicial Panel, or its Chairperson, upon a showing of good cause. SECTION 3

Nothing contained in these *Rules* shall be construed to permit or allow a Panel Member whose decision has been appealed to the full Panel to participate in the Panel's consideration of the appeal. SECTION 4

Decisions of the full Judicial Panel may be appealed to the International Convention for final resolution. Any such appeal must be postmarked or submitted electronically to the International Secretary - Treasurer within thirty (30) days following the date of the full Judicial Panel decision. SECTION 5

ARTICLE IX

ADMINISTRATORSHIP HEARING BOARD

Upon receipt of notification by the International President that a subordinate body has been placed in administratorship, under the provisions of Article IX, Section 37, of the International Constitution, the Judicial Panel Chairperson shall SECTION 1

appoint, from among the members of the Panel, an Administratorship Hearing Board. If the affected subordinate body is a local union, not more than three members shall be appointed. If the affected subordinate body is a council, three members shall be appointed. If the Administratorship Hearing Board consists of more than one member, the Chairperson of the Judicial Panel shall designate one of the members to serve as Chairperson.

SECTION 2 A hearing shall be held before the Administratorship Hearing Board as soon as is consistent with due process, but with not less than seven (7) days' notice, and not later than twenty-one (21) days after the imposition of any such administratorship. The Chairperson of the Administratorship Hearing Board shall be responsible for making all hearing arrangements, including designating date, time, and location, and whether to conduct a virtual hearing, and for giving adequate notice.

SECTION 3 The Administratorship Hearing Board shall have complete discretion concerning the admissibility of evidence but shall provide all interested parties a fair opportunity to present their views on the matter.

SECTION 4 A verbatim transcript of the proceedings will be made under the direction of the Administratorship Hearing Board. Any party may obtain a copy of the transcript by purchasing it from the re-

porter and paying the cost thereof as determined by the reporter.

The decision of the Administratorship Hearing Board shall conform to the requirements of Article IX, Section 41, of the International Constitution. SECTION 5

ARTICLE X

INVESTIGATING COMMITTEE

When the International President refers a matter to the Judicial Panel for hearing and/or investigation under the provisions of Article IX, Section 38, of the International Constitution, the Chairperson of the Judicial Panel shall appoint from among the members of the Panel an Investigating Committee. If the affected subordinate body is a local union, not more than three members shall be appointed. If the affected subordinate body is a council, three members shall be appointed. SECTION 1

If the Investigating Committee consists of more than one member, the Chairperson of the Judicial Panel shall designate one of the members to serve as Chairperson.

If the Investigating Committee determines to hold a hearing, any directly interested party requests a hearing or in any case where a hearing SECTION 2

is required by applicable law, the Investigating Committee shall hold a hearing, which may be held virtually, within thirty (30) days thereafter and with not less than seven (7) days' notice to the subordinate body. The Investigating Committee shall use such other investigating procedures as it deems appropriate under the circumstances.

- SECTION 3 The Investigating Committee shall, as expeditiously as possible, make a written report and recommendations to the International President in accordance with Article IX, Section 44, of the International Constitution.
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ARTICLE XI

ELECTION PROTESTS

- SECTION 1 The Judicial Panel shall decide subordinate body election protests and challenges in accordance with the Elections Code, Appendix D of the International Constitution, and these *Rules*.
- SECTION 2 Any protestant or nominee adversely affected by a decision of a subordinate body on a challenge or a protest may file a written appeal with the Judicial Panel within ten (10) days after the subordinate body's decision, or, if no decision has been rendered, within forty (40) days after filing the original protest with the subordinate body.

Upon receipt of an election protest or challenge, the Panel Chairperson shall make an initial determination as to whether or not the matter is properly before the Judicial Panel. Should the Chairperson find that the election protest or challenge has not been filed in a timely fashion, as required by the International Constitution, the Chairperson may summarily reject the election protest or challenge; provided, however, that if the Panel Chairperson finds that there were mitigating circumstances which caused the delay, the Chairperson may hold that the matter is properly before the Panel. Any such summary decision by the Chairperson may be appealed within ten (10) days thereafter to the full Judicial Panel.

SECTION 3

Upon finding that the protest or challenge is properly before the Panel, the Chairperson shall designate one or more members of the Judicial Panel to conduct an investigation. Such investigation may be conducted in person or virtually, provided all interested parties are afforded an opportunity to be heard, and such Panel Member or Members shall issue a decision within forty (40) days. If the investigation shows there were violations, which may have affected the outcome of the election, the election or any part thereof may be set aside and a new election held. In such circumstances, the new election may be conducted under the supervision of a representative designated by the Panel Member or Members who investigated the election.

SECTION 4

SECTION 5 Decisions made by a Panel Member or Members may be appealed to the full Judicial Panel by filing a written notice of such appeal within ten (10) days after the issuance of the decision. The Judicial Panel shall hear and decide such appeal at its next meeting.

ARTICLE XII

SURETY BOND PROCEEDINGS

SECTION 1 When the International Secretary-Treasurer refers a matter to the Judicial Panel pursuant to Article VI, Section 14, of the International Constitution, the Chairperson of the Judicial Panel shall conduct an investigation to determine whether charges have been brought and prosecuted against the officer or staff employee who was named as principal in the bonding claim, the payment of which initially caused the referral by the International Secretary-Treasurer. If the Chairperson finds that charges were filed and prosecuted against such individual based upon the actions or omission, which gave rise to the bonding claim, the Chairperson shall report that fact to the International Secretary-Treasurer and shall close the Judicial Panel's investigation into the matter. If the Chairperson finds that such charges have been filed but have not yet been finally resolved, the Chairperson shall defer action on the matter until a determination can be

made as to whether such charges have been, or are being, appropriately prosecuted.

If the Chairperson finds that no such charges were filed against the principal, or that charges were filed but were not appropriately prosecuted, the Chairperson shall appoint one member of the Judicial Panel to act as hearing officer and to conduct an inquiry to determine whether the nature and extent of the actions or omissions on which the payment of the bonding claim was based would justify the imposition of penalties against the principal.

SECTION 2

In conducting such inquiry, the hearing officer shall convene a hearing, which may be held virtually, on at least thirty (30) days' notice to the principal. All testimony at such hearing shall be made under oath and a verbatim record shall be made, either through the use of a court reporter or mechanical means, and such record shall be retained by the International Secretary-Treasurer for at least five years following final disposition of the case.

SECTION 3

In any proceeding held pursuant to this Article, the proof of loss and supporting documentation shall be furnished to the principal with the notice of hearing, and they shall constitute the charges and evidence against the principal; provided, that the hearing officer may request that the International Secretary-Treasurer provide an appropriate witness to give testimony clarifying or supplementing the proof of

SECTION 4

loss in any case where the hearing officer believes such testimony is necessary. The principal shall be given an opportunity to cross-examine any such witness and to present evidence with regard to whether the principal was guilty of the acts or omissions upon which the payment of the bonding claim was based and whether any penalty should be imposed.

SECTION 5 If the hearing officer concludes that a penalty is justified, any one or more of the penalties set forth in Article X, Section 15, of the International Constitution may be assessed.

SECTION 6 In any proceeding brought pursuant to this Article, the principal shall be guaranteed those rights of the accused set forth in Article X, Section 12, of the International Constitution, except those contained in sub-paragraphs A, C, E, F (other than the right to cross-examine any witnesses that may be called in such proceeding) and J of that section.

ARTICLE XIII

MISCELLANEOUS

SECTION 1 The language of these *Rules* shall be liberally construed and shall be interpreted in a manner designed to fully protect the fundamental rights of members.

These *Rules* are subject to and subordinate to the Constitution of the American Federation of State, County and Municipal Employees. It is the intent of the Judicial Panel that these *Rules* shall conform to the provisions of the International Constitution. Should a conflict between these *Rules* and the International Constitution be found, the provisions of the International Constitution shall prevail.

SECTION 2

Communications required or anticipated by these *Rules* shall be sent by email if the Judicial Panel has a personal email address for the intended recipient, provided however, that charges and decisions shall be transmitted by certified mail, return receipt requested, even if an email transmission is made.

SECTION 3

When any hearing, trial, investigation or protest is conducted virtually, the Judicial Panel shall ensure attendees adhere to standards of privacy, decorum and these *Rules*, which may include requiring attendees to provide written confirmation as a condition for admittance.

SECTION 4

*As approved by
the International Executive Board
September 15, 2021*



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