

Union of Taxation Employees

REGULATION NO. 26

DISCIPLINE PROCEDURES

26.1 GENERAL

1. Notwithstanding the procedures contained in this Regulation, disciplinary procedures may be initiated in accordance with the By-Laws at a higher level than where the actions giving rise to disciplinary action occurred.
2. Any ~~accusation(s)~~ **allegation(s)** which is found to be frivolous or intended to harass, embarrass, or discredit a member or members may result in a recommendation of disciplinary action to be included in the Committee report.
3. Any member against whom an ~~accusation~~ **allegation** of misconduct is ~~alleged~~ **made** shall not be a member of the Committee established to investigate the allegation(s), and shall not be given voice or vote in the decision to accept or reject the findings and recommendations of such a Committee.
4. Should the Committee in the process of their investigation receive information that leads to other provisions of the By-Laws, the Committee shall notify the member(s) concerned in writing and provide an opportunity for the member(s) concerned to respond. This information now becomes part of the investigation.
5. The procedure for dealing with any disciplinary situation which may arise at the Local, PSAC Regional Area Council, PSAC National Board of Directors or Alliance Executive levels as found in the Constitution.
6. The procedure for dealing with any disciplinary situation, which may arise, which is not specifically outlined under this Regulation, shall be deemed to be covered and processed within the spirit and intent of this Regulation.

26.2 **ALLEGATIONS and the Establishment of an INVESTIGATIONS COMMITTEE INVESTIGATION PROCEDURES**

1. Any and all allegations against a member shall be in writing, signed by the member(s) putting forth the allegation(s), and submitted to the appropriate body for consideration:
2. (a) allegations at the Local level shall be submitted to the Local Executive;
- (b) allegations that involve member(s) from more than one Local in a region shall be submitted to the Regional Vice-President;
- (c) allegations that involve member(s) from more than one region shall be submitted to the President;
- (d) allegations against Regional Vice-Presidents or Vice-Presidents shall be submitted to the President;

(e) allegations against the President in the capacity of Component President shall be submitted to the 1st Vice-President; and

(f) allegations against the President in the capacity of a member of the National Board of Directors shall be submitted to the PSAC Executive Committee.

3. a. The appropriate executive body receiving the allegation(s) shall determine whether *evidence warrants an investigation. If so, it shall establish an internal or external impartial investigation Committee consisting of three (3) people to investigate and assess the allegation(s), including the receipt of oral and written evidence. (*evidence in that there must be some supporting documentation that the allegations are valid. It does not mean that conclusive evidence must be presented nor does it mean that the body concerned is accepting or rejecting the supporting documentation.)

b. Notwithstanding 2 (a) and (b) above, the President shall have the authority to intervene and establish an Investigative Committee at the national level.

c. All persons appointed to an Investigative Committee must have completed the PSAC Internal Investigations Training Course.

4. The Committee shall provide the member against whom the allegation has been made with a copy of the written ~~accusation(s)~~ allegation(s). The member(s) submitting the allegation(s) and the member(s) against whom the allegation has been made shall be afforded the right to appear before the Committee. The Committee may interview witnesses.

26.3 GUIDELINES FOR INVESTIGATION PROCEDURES

26.3.1 Investigation Committee

The role and responsibilities of the Committee include:

1. all persons appointed to the Committee must have completed the PSAC Internal Investigations Training Course.

2. providing the member accused with a copy of the written ~~accusation(s)~~ allegation(s);

3. ensuring the investigation is impartial and is seen as such by all parties;

4. investigating the allegations with appropriate discretion and ensuring that the investigation is ~~done in a timely fashion~~ completed within 3 months of the committee being established;

5. interviewing witnesses and reviewing all relevant documents identified by the parties; and

6. submitting a written report to the body which established the Committee, the member making the ~~accusation~~ allegation and the member accused.

7. keep all information obtained as a member of the committee confidential.

26.3.2 Investigation Procedures

1. The members of the Committee shall develop the appropriate methodology for the investigation based on the allegation(s) and the mandate of the Committee.
2. The member making the ~~accusation~~ allegation and the member accused may provide the Committee with a list of witnesses to be interviewed by the Committee. A witness is an individual who witnessed the alleged misconduct or who has some other type of relevant information that will assist in determining whether a contravention occurred. The Committee shall determine which witnesses they believe may have relevant information related to the allegation. A process for interviewing witnesses shall be developed, for example, the Committee may determine whether witnesses shall be given the option of providing a narrative in their own words, respond to questions from the Committee, or a combination of both.
3. The Committee shall ensure that:
 - a. witnesses are advised of the mandate of the Committee;
 - b. witnesses are aware that they may be accompanied by a person of their choice to the interview;
 - c. interviews are conducted in an appropriate confidential area; the applicable portion of the draft report be sent to witnesses for review of their statements when such statements are used in the report;
 - e. all Committee members take their own notes during the interview.

26.3.3 Committee Report

1. As required by this Regulation, the Committee report shall be written in one or two parts. Part I shall include a finding of fact for each allegation and a determination whether the contravention of the constitution, Local, and/or UTE, and/or PSAC By-Laws occurred.

This part of the report may also include a determination whether any allegation is found to be frivolous or intended to harass, embarrass or discredit a member.

- a. Part I of the Committee report might also include:
 - i. Committee composition;
 - ii. description of the alleged misconduct;
 - iii. mandate of Committee;
 - iv. methodology (including reference materials, list of witnesses and dates of interviews.);
 - v. findings.
- b. Part II of the report shall indicate whether corrective action is recommended including any specific disciplinary action such as, suspension from membership and/or removal from office. When an allegation of misconduct involves harassment, the Committee report shall not include the actual names of those involved with the exception of the name of the individual who is recommended for discipline. This measure shall provide some confidentiality in the event that the

Committee report is submitted to the Executive Council and included in the minutes.

c. The Committee report shall be dated and signed by the three people on the Committee and shall not be amended. The appropriate body that established the Committee must be satisfied that the proper procedure has been followed by the Committee and shall vote whether to accept the Committee report ~~in accordance with General Provisions 26.1.1(3).~~

2. The Committee shall submit a draft copy of the final report to the body that authorized the establishment of the Committee for review and amendments if deemed necessary, prior to sending it to the ~~Local meeting or~~ Executive Council. Any amendments must be agreed to by the Committee; such amendments shall be for clarification or process only.

3. The Committee shall submit a Committee report to the member against whom the allegation(s) has been made, the member(s) who submitted the allegation(s) and the appropriate body who established the Committee.

4. If disciplinary action is not recommended, the appropriate body shall review and vote whether to accept the Committee report. A simple majority vote of those in attendance shall determine acceptance. All decisions shall be conveyed in writing to the persons involved.

5. ~~If disciplinary action is recommended at the Local level, the Local Executive shall submit~~ present the Committee report at a special or general meeting of the Local and shall be subject to the acceptance of two-thirds (2/3) of those members in attendance ~~in accordance to General Provisions 26.1.1.~~ Should the Committee report recommendations not receive two-thirds (2/3) acceptance, rationale for the rejection must be provided to the persons involved.

a. ~~If the Local meeting accepts a recommendation of removal from office, the Local Executive shall convey in writing that decision to the member or members concerned together with written notice that an appeal may be submitted within sixty (60) calendar days of receipt of the disciplinary notification.~~

b. ~~If the Local meeting accepts a recommendation to suspend or expel from membership the Local will convey the recommendation to the President, who shall submit such recommendation to the PSAC National Board of Directors together with all relevant documentation.~~

6. If disciplinary action is recommended at the national level, the Committee report shall be subject to acceptance by a two-thirds (2/3) majority vote at a meeting of the Executive Council. Should the Committee report recommendations not receive two-thirds (2/3) acceptance, rationale for the rejection must be provided ~~to the persons involved.~~

a. ~~If the Executive Council accepts a recommendation of removal from office, the President shall provide the member(s) concerned with written notice that an appeal may be submitted to the PSAC National Board of Directors~~ within sixty (60) calendar days of receipt of the disciplinary notification.

b. If the Executive Council accepts a recommendation to suspend or expel from membership the President shall submit such recommendation to the PSAC National Board of Directors together with all relevant documentation.

26.4 APPEAL PROCESS

The appeal process is an informal process that it is accessible to all members and shall allow the parties involved to be heard.

26.4.1 For discipline recommended by a Local

1. The written request for an appeal of a Local disciplinary recommendation must be received by the Local Executive within sixty (60) days of receipt of the disciplinary recommendation.

2. The Local Executive will appoint an Appeals Officer to hear the appeal within sixty (60) days of receipt of the appeal. The Appeals Officer must be agreed upon by all parties.

3. The appeal hearing will be held within sixty (60) days of the appointment of the Appeals Officer.

4. The Local Executive will ensure that a copy of the Local Investigative Committee report be given to the Appeals Officer prior to the appeal hearing.

5. The appellant has the right to be heard and to be represented at the appeal hearing.

6. The Local Executive has the right to be heard and represented at the appeal hearing.

7. The Appeals Officer will schedule the hearing date and communicate the date of the hearing to the Appellant and the Local Executive representative.

8. The appellant or their representative shall make a presentation to the Appeals Officer outlining why they do not believe the removal from office or other disciplinary recommendation was justified.

9. Any witnesses for the appellant shall make a presentation to the Appeals Officer outlining any role they were involved with which impacted upon the removal from office or other disciplinary recommendation.

10. The representative from the Local Executive shall make a presentation to the Appeals Officer outlining why the action to remove from office or other disciplinary recommendation was taken.

11. Any witnesses for the Local Executive shall make a presentation to the Appeals Officer outlining any role they were involved with which impacted upon the removal from office or other disciplinary recommendation.

12. The Appeals Officer may ask questions of clarification, which arise from the presentations.

13. Both the appellant or their representative and representative from the Local Executive be provided with an opportunity to make a closing statement.

14. The Appeals Officer shall render a written decision no later than thirty (30) days from the date they received the closing statements and shall forward the decision to the parties involved.

15. The appeal decision of the Appeals Officer shall be final and binding on all parties to the appeal.

26.4.2 Appeal Hearing Costs for discipline recommended by a Local

1. The Local will be responsible for all costs associated with the Appeals Officer.

2. Each party shall be responsible for their own expenses.

3. The expenses of the representative of the appellant shall be borne by the appellant.

4. Each party shall be responsible for any expenses incurred as a result of testimony from any witness they wish to call.

5. If the appellant's appeal is successful, the appellant may be entitled to reasonable expenses as determined by the Local Executive.

26.4.3 For discipline recommended by the Executive Council

1. The written request for an appeal of a disciplinary recommendation must be received by the President within sixty (60) days of receipt of the disciplinary recommendation.

2. The President will appoint an Appeals Officer to hear the appeal within sixty (60) days of receipt of the appeal. The Appeals Officer must be agreed upon by all parties.

3. The appeal hearing will be held within sixty (60) days of the appointment of the Appeals Officer.

4. The President will ensure that a copy of the Investigative Committee report be given to the Appeals Officer prior to the appeal hearing.

5. The appellant has the right to be heard and to be represented at the appeal hearing.

6. The Executive Council has the right to be heard and represented at the appeal hearing.

7. The Appeals Officer will schedule the hearing date and communicate the date of the hearing to the Appellant and the Executive Council representative.

8. The appellant or their representative shall make a presentation to the Appeals Officer outlining why they do not believe the removal from office or other disciplinary recommendation was justified.

9. Any witnesses for the appellant shall make a presentation to the Appeals Officer outlining any role they were involved with which impacted upon the removal from office or other disciplinary recommendation.

10. The representative from the Executive Council shall make a presentation to the Appeals Officer outlining why the action to remove from office or other disciplinary recommendation was taken.

11. Any witnesses for the Executive Council shall make a presentation to the Appeals Officer outlining any role they were involved with which impacted upon the removal from office or other disciplinary recommendation.

12. The Appeals Officer may ask questions of clarification, which arise from the presentations.

13. Both the appellant or their representative and representative from the Executive Council be provided with an opportunity to make a closing statement.

14. The Appeals Officer shall render a written decision no later than thirty (30) days from the date they received the closing statements and shall forward the decision to the parties involved.

15. The appeal decision of the Appeals Officer shall be final and binding on all parties to the appeal.

26.4.4 Appeal Hearing Costs for discipline recommended by the Executive Council.

1. UTE will be responsible for all costs associated with the Appeals Officer.

2. UTE will be responsible for all cost associated with the meeting space in which the appeal hearing is held.

3. Each party shall be responsible for their own expenses.

4. The expenses of the representative of the appellant shall be borne by the appellant.

5. Each party shall be responsible for any expenses incurred as a result of testimony from any witness they wish to call.

6. If the appellant's appeal is successful, the appellant may be entitled to reasonable expenses as determined by the Executive Council.

~~26.5 GUIDELINES FOR APPEAL PROCESS~~

~~(1) The appeal process is an informal one so that it is accessible to all members and shall allow the parties involved to be heard. The procedure shall be as follows:~~

~~a. The appellant or their representative shall make a presentation to the Executive Council outlining why he/she does not believe the removal from office, or other disciplinary action is justified;~~

~~b. Any witnesses for the appellant shall make a presentation to the Executive Council outlining any role they were involved with which impacted upon the removal from office, or other disciplinary decision;~~

~~c. The representative from the appropriate Local shall make a presentation to the Executive Council outlining why the action to remove from office, or other disciplinary action was taken;~~

~~d. Any witnesses for the Local shall make a presentation to the Executive Council outlining any role they were involved with which impacted upon the removal from office, or other disciplinary action decision;~~

~~e. The Executive Council members may ask questions of clarification, which arise from the presentations;~~

~~f. Both the appellant and representative from the Local shall be provided with an opportunity to make a closing summary; and~~

~~g. The Executive Council members shall render a written decision. The President shall forward the decision to the parties involved.~~

~~26.6 REMOVAL FROM OFFICE~~

~~1. Notwithstanding the above, the removal from office provisions of this Regulation shall be deemed to have been complied with by a Local under the following conditions:~~

~~a. When provision is made in the Local By-Laws for a referendum vote of the membership of the particular constituency represented by the officer proposed for removal from office;~~

~~or~~

~~b. When, in the case of an officer who was elected by representatives rather than by direct membership election, provision is made in the Local By-Laws for a vote by representatives of the particular constituency represented by the officer proposed for removal from office.~~