

2020 MAPE DELEGATE ASSEMBLY RESOLUTION

Updates to Language of the Judicial Committee and Judicial Procedure.

Whereas the language used to describe the parties of a judicial procedure are inconsistent through the article.

The words such as “accused”, “accuser”, “charges”, and “confront” are unnecessarily aggressive, given they are used in legal cases of criminal offenses, and may create shame for any or all parties involved.

The judicial committee and judicial procedure bylaws do not pertain to violations of law.

The words “complainant”, “respondent”, and “complaint” are more appropriate for a non-litigious dispute.

The purpose of the judicial procedure is to maintain order, and to protect members and the organization of MAPE from inappropriate and/or harmful conduct. To that end, civility is important. Aggressive and confrontational language is not conducive to civility, and members do not deserve to be treated as criminals or troublemakers due to participating in a judicial procedure.

Therefore be it resolved that Articles XII and XIII of the MAPE Bylaws be amended, as shown below, to update the language such that it is more appropriate and civil.

Passed by	Date
Tabatha Ries-Miller	6/27/20
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(Underscoring denotes wording inserted (inserted wording), and strike-through denotes wording deleted (~~deleted wording~~).

What is being amended?	Resulting Language
<p>Article XII - Judicial Committee</p> <p>Section 1. Term of Office .</p> <p>After a charge <u>complaint</u> is properly filed (Article XII, Section 4 <u>Article XIII, Section 4</u>), the Statewide President will chair the committee. If the Statewide President is a participant in the <u>charge complaint</u>, the Vice President will become the Chair. The Chair will appoint 12 additional members to the Committee who are not currently serving on the Board of Directors. Terms will expire following the rendering of the committee's <u>Committee's</u> decision or the Board of Directors' appeal decision, whichever is later.</p> <p>Section 2. Selecting Hearing Body <u>Judicial Committee Selection .</u></p> <p>In any case coming before the Judicial Committee, the Judicial Committee Chair shall send a list of the names of the members of the Judicial Committee to the accuser <u>complainant</u> and the accused <u>respondent</u>. Within 30 days thereafter, each party shall have the opportunity to delete three names from the list of Judicial Committee members, by written notification to the Judicial Committee Chair. From the names remaining, the Chair shall appoint one member</p>	<p>Article XII - Judicial Committee</p> <p>Section 1. Term of Office .</p> <p>After a complaint is properly filed (Article XIII, Section 4), the Statewide President will chair the committee. If the Statewide President is a participant in the complaint, the Vice President will become the Chair. The Chair will appoint 12 additional members to the Committee who are not currently serving on the Board of Directors. Terms will expire following the rendering of the Committee's decision or the Board of Directors' appeal decision, whichever is later.</p> <p>Section 2. Judicial Committee Selection .</p> <p>In any case coming before the Judicial Committee, the Judicial Committee Chair shall send a list of the names of the members of the Judicial Committee to the complainant and the respondent. Within 30 days thereafter, each party shall have the opportunity to delete three names from the list of Judicial Committee members, by written notification to the Judicial Committee Chair. From the names remaining, the Chair shall appoint one member of the</p>

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<p>of the Judicial Committee to serve as the hearing officer, who shall conduct the hearing.</p> <p>Section 3. Documentation of Decisions .</p> <p>Decisions of the Judicial Committee shall be in writing, and shall include at least the following separate items:</p> <ol style="list-style-type: none">1. A statement of charges <u>complaint</u>;2. A summary of the evidence in support of the charges <u>complaint</u>;3. A summary of the evidence in refutation of the charges <u>complaint</u>;4. A finding of facts;5. A conclusion of proceedings;6. The assessment of a penalty, if any; or an order setting aside or modifying a previously imposed penalty. <p>Section 4. Communication of Decisions .</p> <p>A copy of the decision of the Judicial Committee shall be transmitted to the accuser <u>complainant</u>, the accuser's <u>complainant</u> counsel of record, the accused <u>respondent</u>, the accused's <u>respondent's</u> counsel of record, and each member of the Judicial Committee.</p>	<p>Judicial Committee to serve as the hearing officer, who shall conduct the hearing.</p> <p>Section 3. Documentation of Decisions .</p> <p>Decisions of the Judicial Committee shall be in writing, and shall include at least the following separate items:</p> <ol style="list-style-type: none">1. A statement of complaint;2. A summary of the evidence in support of the complaint;3. A summary of the evidence in refutation of the complaint;4. A finding of facts;5. A conclusion of proceedings;6. The assessment of a penalty, if any; or an order setting aside or modifying a previously imposed penalty. <p>Section 4. Communication of Decisions .</p> <p>A copy of the decision of the Judicial Committee shall be transmitted to the complainant, the complainant counsel of record, the respondent, the respondent's counsel of record, and each member of the Judicial Committee.</p>
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<p>Section 5. Notice.</p> <p>A written communication or required notice to the Judicial Committee or any member thereof shall be sent to the Judicial Committee Chair at the MAPE Central office.</p> <p>Section 6. Reporting.</p> <p>Each Judicial Committee shall submit a written summary of its actions to the next regular Delegate Assembly. All Delegates shall receive a copy of the report. Such a summary shall include a listing of all cases referred to it, a description of the major issues involved, and the judgments of the Committee. The Committee report shall call attention to pertinent omissions or ambiguities in governing documents and policies and may offer recommendations.</p> <p>Section 7. Staff Assistance .</p> <p>The Judicial Committee shall be provided with staff assistance and facilities as are necessary and appropriate to the proper functioning of the Judicial Committee in accordance with policies established by the MAPE Board of Directors.</p> <p style="text-align: center;">Article XIII - Judicial Procedure</p> <p>Section 1. Filing Charges-Complaint.</p>	<p>Section 5. Notice.</p> <p>A written communication or required notice to the Judicial Committee or any member thereof shall be sent to the Judicial Committee Chair at the MAPE Central office.</p> <p>Section 6. Reporting.</p> <p>Each Judicial Committee shall submit a written summary of its actions to the next regular Delegate Assembly. All Delegates shall receive a copy of the report. Such a summary shall include a listing of all cases referred to it, a description of the major issues involved, and the judgments of the Committee. The Committee report shall call attention to pertinent omissions or ambiguities in governing documents and policies and may offer recommendations.</p> <p>Section 7. Staff Assistance .</p> <p>The Judicial Committee shall be provided with staff assistance and facilities as are necessary and appropriate to the proper functioning of the Judicial Committee in accordance with policies established by the MAPE Board of Directors.</p> <p style="text-align: center;">Article XIII - Judicial Procedure</p> <p>Section 1. Filing Complaint.</p>
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Except as hereinafter provided in this Article, any member of MAPE may file ~~charges~~ a complaint against any MAPE member or individual who was a MAPE member at the time of the alleged violation(s) for one or more violations as provided in Section 2 of this Article.

Section 2. **Basis for ~~Charges~~ Complaint.**

The following and no other shall constitute the basis for the filing of ~~charges~~ a complaint:

1. Violation of any provision of MAPE's Governing Documents or Policies or of any officially adopted and approved Governing Documents or Policies of a Local to which the ~~member being accused~~ respondent is subject;
2. Misappropriation, embezzlement, or illegal use of union funds;
3. Acting in collusion with management to the detriment of the welfare of MAPE or its membership;
4. Any activity which assists or is intended to assist a competing organization within the jurisdiction of MAPE;
5. Conviction of a crime, the nature of which is such to bring MAPE as an organization into disrepute;
6. Instituting or urging others to institute action outside MAPE against MAPE, a subordinate body, or any position holder of MAPE or of a

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Section 2. **Basis for Complaint.**

The following and no other shall constitute the basis for the filing of a complaint:

1. Violation of any provision of MAPE's Governing Documents or Policies or of any officially adopted and approved Governing Documents or Policies of a Local to which the respondent is subject;
2. Misappropriation, embezzlement, or illegal use of union funds;
3. Acting in collusion with management to the detriment of the welfare of MAPE or its membership;
4. Any activity which assists or is intended to assist a competing organization within the jurisdiction of MAPE;
5. Conviction of a crime, the nature of which is such to bring MAPE as an organization into disrepute;
6. Instituting or urging others to institute action outside MAPE against MAPE, a subordinate body, or any position holder of MAPE or of a subordinate body without first exhausting all

<p>subordinate body without first exhausting all internal remedies within MAPE, providing that the foregoing shall not apply where the action was instituted in order to prevent the loss of rights under an applicable statute of limitations and the member has diligently pursued available internal remedies;</p> <ol style="list-style-type: none">7. Refusal or deliberate failure to carry out legally authorized decisions of the Delegate Assembly, the Statewide President, the Board of Directors, the Executive Committee, or the Judicial Committee of which the accused is a part;8. Using the name MAPE or of any subordinate body in an unauthorized manner or for an unauthorized purpose;9. Using MAPE membership information in an unauthorized manner or for an unauthorized purpose;10. Deliberately interfering with any official of MAPE or of a Local or Region in the discharge of the official's lawful duty;11. The solicitation or acceptance of a bribe or the acceptance of a gift of more than nominal value from any employer, group of members, employee of MAPE or from any person or firm which has or is seeking to establish a business relationship with MAPE or any subordinate body.	<p>internal remedies within MAPE, providing that the foregoing shall not apply where the action was instituted in order to prevent the loss of rights under an applicable statute of limitations and the member has diligently pursued available internal remedies;</p> <ol style="list-style-type: none">7. Refusal or deliberate failure to carry out legally authorized decisions of the Delegate Assembly, the Statewide President, the Board of Directors, the Executive Committee, or the Judicial Committee of which the accused is a part;8. Using the name MAPE or of any subordinate body in an unauthorized manner or for an unauthorized purpose;9. Using MAPE membership information in an unauthorized manner or for an unauthorized purpose;10. Deliberately interfering with any official of MAPE or of a Local or Region in the discharge of the official's lawful duty;11. The solicitation or acceptance of a bribe or the acceptance of a gift of more than nominal value from any employer, group of members, employee of MAPE or from any person or firm which has or is seeking to establish a business relationship with MAPE or any subordinate body. <p>Section 3. Filing of Complaint.</p>
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<p>Section 3. Filing Charges <u>of Complaint</u>.</p> <p>Charges <u>A complaint</u> against an individual shall be filed with and heard by the Judicial Committee as hereinafter provided.</p> <p>Section 4. Format of Charges <u>Complaint</u>.</p> <p>Charges <u>Complaints</u> shall be in writing and shall be signed by the member or members bringing the charges <u>complaint</u>. The charges <u>complaint</u> shall be specific, citing in detail the nature, the date, and the circumstances of the alleged offense, and, where a violation of a Governing Document or Policy provision is alleged; the specific Section or Policy shall be cited, along with the specific act or failure to act, which constitutes the alleged violation. The charges <u>complaint</u> shall be filed with the Chair of the Judicial Committee.</p> <p>Section 5. Notification of Charges <u>Complaint</u>.</p> <p>Within 15 days following the receipt of the charges <u>complaint</u> , the Chair of the Judicial Committee shall send by certified mail, return receipt requested, an exact and full copy of the charge <u>complaint</u> to the accused party <u>respondent</u>, together with a copy of this article of the bylaws.</p> <p>Section 6. Recording Hearing Proceedings.</p> <p>The hearing body Judicial Committee shall fix the date, time, and place for the hearing, in such manner as to afford the maximum convenience <u>practical under all circumstances</u> to both the accused</p>	<p>A complaint against an individual shall be filed with and heard by the Judicial Committee as hereinafter provided.</p> <p>Section 4. Format of Complaint.</p> <p>Complaints shall be in writing and shall be signed by the member or members bringing the complaint. The complaint shall be specific, citing in detail the nature, the date, and the circumstances of the alleged offense, and, where a violation of a Governing Document or Policy provision is alleged; the specific Section or Policy shall be cited, along with the specific act or failure to act, which constitutes the alleged violation. The complaint shall be filed with the Chair of the Judicial Committee.</p> <p>Section 5. Notification of Complaint.</p> <p>Within 15 days following the receipt of the complaint, the Chair of the Judicial Committee shall send by certified mail, return receipt requested, an exact and full copy of the complaint to the respondent, together with a copy of this article of the bylaws.</p> <p>Section 6. Recording Hearing Proceedings.</p> <p>The Judicial Committee shall fix the date, time, and place for the hearing, in such manner as to afford the maximum convenience practical under all circumstances to both the respondent and the complainant. The entire proceedings will be recorded. A verbatim written record of the</p>
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~~respondent~~ and the ~~accuser complainant~~ ~~practical~~
~~under all circumstances~~. The entire proceedings will
be recorded. A verbatim written record of the
proceedings will be available to the ~~accused~~
~~respondent~~ or the ~~accuser complainant~~, without cost,
upon request.

Section 7. **Rights of the Accused Respondent.**

The ~~accused person~~ respondent shall be guaranteed
the following rights:

1. The right to receive by certified mail to the
~~accused person's~~ respondent's current
address of record with MAPE, return receipt
requested, a full copy of the ~~charges~~
complaint within 15 days after they are filed;
2. The right to file a written answer to the
~~charges~~ complaint ;
3. The right to a hearing within 120 days after
having been ~~after having been~~ notified under
provisions in ~~Article XII~~ Article XIII, Section 7-
1;
4. The right to have a least 15 days' advance
notice of the date, time, and place of the
hearing;
5. ~~The right to confront the accuser;~~
6. ~~5.~~ The right to ~~cross-examine~~ question the
~~accuser complainant~~ and any witnesses;
7. ~~6.~~ The right to present witnesses ~~in~~ on the
~~accused person~~ respondent's behalf;

proceedings will be available to the respondent or
the complainant, without cost, upon request.

Section 7. **Rights of the Respondent.**

The respondent shall be guaranteed the following
rights:

1. The right to receive by certified mail to the
respondent's current address of record with
MAPE, return receipt requested, a full copy of
the complaint within 15 days after they are
filed;
2. The right to file a written answer to the
complaint;
3. The right to a hearing within 120 days after
having been notified under provisions in
Article XIII, Section 7-1;
4. The right to have a least 15 days' advance
notice of the date, time, and place of the
hearing;
5. The right to question the complainant and
any witnesses;
6. The right to present witnesses on the
respondent's behalf;
7. The right to compel the production of union
records pertinent to the case;
8. The right to choose a person to act as the
respondent's counsel in the case;
9. The right to be presumed innocent unless
proven guilty;

<p>8. <u>7.</u> The right to compel the production of union records pertinent to the case;</p> <p>9. <u>8.</u> The right to choose a person to act as the accused person <u>respondent's</u> counsel in the case;</p> <p>10. <u>9.</u> The right to be presumed innocent unless proven guilty;</p> <p>11. <u>10.</u> The right to refuse to testify, provided, however, that this right shall not include the right to refuse to produce at the hearing any papers, books, or financial or other records which are the property of the union and which are pertinent to the case;</p> <p>12. <u>11.</u> The right to appeal, in the manner hereinafter provided;</p> <p>13. <u>12.</u> The right to choose either an open or closed hearing.</p> <p>Section 8. Rights of the Accuser <u>Complainant</u>.</p> <p>The <u>complainant</u> person bringing the charges shall be guaranteed the following rights:</p> <ol style="list-style-type: none">1. The right to receive a copy of any written answer to the charge complaint that may be filed by the accused <u>respondent</u> at the time such answer is filed;2. The right to have the initial hearing body convened no later than 90 calendar days after the charge(s) have been <u>complaint was</u> filed;	<p>10. The right to refuse to testify, provided, however, that this right shall not include the right to refuse to produce at the hearing any papers, books, or financial or other records which are the property of the union and which are pertinent to the case;</p> <p>11. The right to appeal, in the manner hereinafter provided;</p> <p>12. The right to choose either an open or closed hearing.</p> <p>Section 8. Rights of the Complainant.</p> <p>Complainant shall be guaranteed the following rights:</p> <ol style="list-style-type: none">1. The right to receive a copy of any written answer to the complaint that may be filed by the respondent at the time such answer is filed;2. The right to have the initial hearing no later than 90 calendar days after the complaint was filed;3. The right to have at least 15 days' advance notice of the date, time, and place of the hearing;4. The right to give personal testimony;5. The right to present the testimony of others and cross-examine witnesses presented by the respondent;
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<div>3. The right to have at least 15 days' advance notice of the date, time, and place of the hearing;</div> <div>4. The right to give personal testimony;</div> <div>5. The right to present the testimony of others and cross-examine witnesses presented by the accused <u>respondent</u>;</div> <div>6. The right to compel the production of union records pertinent to the cases;</div> <div>7. The right to choose a person to act as the charging party's <u>complainant's</u> counsel in the case;</div> <div>8. The right to appeal in the manner hereinafter provided.</div> <div>Section 9. Obligations of the Accuser Complainant.</div> <div>The person bringing the charges <u>complainant</u> shall be under the following obligations:</div> <div><div>1. To file the original charge <u>complaint</u> in sufficient detail as to afford the accused <u>person</u> <u>respondent</u> full opportunity to prepare a defense;</div><div>2. To appear in person at the hearing;</div><div>3. To assume the burden of proof.</div></div> <div>Section 10. Penalties.</div> <div>A hearing body Judicial Committee may, if it finds the accused party <u>respondent</u> guilty, assess</div>	<div>6. The right to compel the production of union records pertinent to the cases;</div> <div>7. The right to choose a person to act as the complainant's counsel in the case;</div> <div>8. The right to appeal in the manner hereinafter provided.</div> <div>Section 9. Obligations of the Complainant.</div> <div>The complainant shall be under the following obligations:</div> <div><div>1. To file the original complaint in sufficient detail as to afford the respondent full opportunity to prepare a defense;</div><div>2. To appear in person at the hearing;</div><div>3. To assume the burden of proof.</div></div> <div>Section 10. Penalties.</div> <div>The Judicial Committee may, if it finds the respondent guilty, assess penalties. Any and all penalties shall be appropriate and proportional to the nature of the violation. Assessed penalties may be any one or more of the following:</div> <div><div>1. A formal reprimand, accompanied by a formal warning against any repetition of the act or acts of which the respondent is found guilty;</div><div>2. Full or partial restitution, where the consequences of the offense can be measured in material terms;</div></div>
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penalties. Any and all penalties shall be appropriate and proportional to the nature of the violation.

Assessed penalties may be any one or more of the following ~~penalties~~:

1. A formal reprimand, accompanied by a formal warning against any repetition of the act or acts of which the ~~accused~~ respondent is found guilty;
2. Full or partial restitution, where the consequences of the offense can be measured in material terms;
3. Removal from positions in the union at the level at which the ~~charges originate~~ complaint originated;
4. Suspension from the right to hold any elected or appointed position at the level at which the ~~charges originate~~ complaint originated for a period not to exceed four years;
5. Suspension from the right to seek or hold any elected or appointed position at any level of MAPE for a period not to exceed four years;
6. Suspension from membership for a period not to exceed four years.

MAPE or any Local or Region may not, during the period of such penalty, employ any individual who has been removed or suspended from office as provided above, in any capacity.

Section 11. **False Charges Complaint.**

3. Removal from positions in the union at the level at which the complaint originated;
4. Suspension from the right to hold any elected or appointed position at the level at which the complaint originated for a period not to exceed four years;
5. Suspension from the right to seek or hold any elected or appointed position at any level of MAPE for a period not to exceed four years;
6. Suspension from membership for a period not to exceed four years.

MAPE or any Local or Region may not, during the period of such penalty, employ any individual who has been removed or suspended from office as provided above, in any capacity.

Section 11. **False Complaint.**

If the complaint is not sustained, and the Judicial Committee is convinced that the complaint was not brought in good faith or was actuated by malice, the Judicial Committee may impose one or more of the penalties as are listed in Section 10 of this Article on the complainant as in its judgment is deemed proper under the circumstances. In any case, the party against whom the penalty is imposed shall have the right to appeal the imposition of the penalty in the manner provided for other appeals, and no such penalty shall take effect while an appeal of such penalty is pending.

If the ~~charges are~~ complaint is not sustained, and the Judicial Committee is convinced that the ~~charges were~~ complaint was not brought in good faith or ~~were~~ was actuated by malice, the Judicial Committee may impose one or more of the penalties as are listed in ~~Article XII~~ Section 10 of this Article on the ~~charging party~~ complainant as in its judgment is deemed proper under the circumstances. In any case, the party against whom the penalty is imposed shall have the right to appeal the imposition of the penalty in the manner provided for other appeals, and no such penalty shall take effect while an appeal of such penalty is pending.

Section 12. Decisions of the Judicial Committee.

All decisions of the Judicial Committee ~~against the accused~~ must meet the standard of preponderance of evidence. A finding of guilt can only occur by an affirmative vote of a majority of the Judicial Committee. The Judicial Committee must render all decisions within 60 days following completion of the hearing, except by mutual consent of the ~~accused~~ respondent and the ~~accuser~~ complainant. Such decisions shall be in writing and shall be transmitted by registered mail, return receipt requested, to the ~~person bringing the charge~~ complainant and to the ~~accused~~ respondent simultaneously.

Section 13. Appeal Procedure.

Either party may, within 30 days following receipt of the decision, file an appeal to the MAPE Board of Directors in the same manner as is provided for the

Section 12. Decisions of the Judicial Committee.

All decisions of the Judicial Committee must meet the standard of preponderance of evidence. A finding of guilt can only occur by an affirmative vote of a majority of the Judicial Committee. The Judicial Committee must render all decisions within 60 days following completion of the hearing, except by mutual consent of the respondent and the complainant. Such decisions shall be in writing and shall be transmitted by registered mail, return receipt requested, to the complainant and to the respondent simultaneously.

Section 13. Appeal Procedure.

Either party may, within 30 days following receipt of the decision, file an appeal to the MAPE Board of Directors in the same manner as is provided for the filing of original complaint. The appeal shall be in writing, and shall be accompanied by a copy of the original complaint and of the decision being appealed. The appeal shall set forth in substance the appellant's reasons for believing the Judicial Committee was in error and the nature of the error.

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<p>filing of original charges <u>complaint</u> with such hearing body. The appeal shall be in writing, and shall be accompanied by a copy of the original charge <u>complaint</u> and of the decision being appealed. The appeal shall set forth in substance the appellant's reasons for believing the hearing body <u>Judicial Committee</u> was in error and the nature of the error.</p>	
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