

2020 MAPE DELEGATE ASSEMBLY RESOLUTION

Establishing the Judicial Procedure as the Sole Procedure for Resolving Complaints by Members

Whereas all members deserve due process.

Order is necessary for MAPE to be a well functioning organization.

Complaints are currently reported and resolved through a number of different avenues, some of which are undocumented. These disparate avenues for filing and resolving complaints not only create confusion, but they also do not ensure a judicious and transparent process that guarantees due process.

The Bylaws have established a judicial procedure to maintain order, and to protect members and the organization of MAPE from harmful conduct.

The Bylaws are the most appropriate place to outline a process for resolving complaints. Members are most likely to consult the Bylaws for guidance pertaining to filing or responding to complaints.

Under Article XII of the Bylaws, the Judicial Committee is required to submit a report of it's actions at the Delegate Assembly. There is no accounting or reporting of complaints resolved outside of the Judicial Procedure, preventing accountability, transparency, and course correction of systemic issues.

The structure of the Judicial Committee is meant to serve as a jury and allows the complainant and respondent input into the selection process to ensure the Judicial Committee is comprised of members who are independent and impartial.

Given the timeline, size of the Judicial Committee, and cost of convening a hearing, the Judicial Procedure is not ideal to address violations of MAPE's Governing Documents or Policies.

This resolution is affected by the final language of the resolution titled Updates to Language of the Judicial Committee and Judicial Procedure and should be considered after that resolution.

Therefore be it resolved that Articles XII and Article XIII of the MAPE Bylaws be amended, as shown below, to create a single consistent procedure for resolving complaints by members, except those pertaining to violations of MAPE's Governing Documents or Policies. If this Delegate Assembly does not adopt a procedure for resolving complaints pertaining to violations of MAPE's Governing Documents or Policies, the Board of Directors shall enact a policy to address complaints pertaining to violations of MAPE's Governing Documents or Policies by December 31, 2020.

Passed by	Date
Tabatha Ries-Miller	6/27/20
Kay Pedretti	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><u>Section 1. Purpose.</u></p> <p><u>The purpose of the Judicial Committee is to consider and respond to complaints filed under Article XIII - Judicial Procedure. All complaints for one or more violations as provided in Article XIII, Section 2 are the sole jurisdiction of the Judicial Committee. Any complaints regarding MAPE's Governing Documents or Policies shall be subject to the Governing Documents or Policies Dispute Procedure pursuant to Article XVIII.</u></p> <p>Section 4 <u>2</u>. 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 <u>3</u>. 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</p>	<p>Article XII - Judicial Committee</p> <p>Section 1. Purpose.</p> <p>The purpose of the Judicial Committee is to consider and respond to complaints filed under Article XIII - Judicial Procedure. All complaints for one or more violations as provided in Article XIII, Section 2 are the sole jurisdiction of the Judicial Committee. Any complaints regarding MAPE's Governing Documents or Policies shall be subject to the Governing Documents or Policies Dispute Procedure pursuant to Article XVIII.</p> <p>Section 2. 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 3. 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</p>

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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 Judicial Committee to serve as the hearing officer, who shall conduct the hearing.

Section 3 4. **Documentation of Decisions.**

Decisions of the Judicial Committee shall be in writing, and shall include at least the following separate items:

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.

Section 4 5. **Communication of Decisions.**

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.

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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>Section 5 <u>6</u>. 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 <u>7</u>. 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 <u>8</u>. 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> <p>Except as hereinafter provided in this Article, any member of MAPE may file a complaint against any MAPE member or individual who was a MAPE member at the time of the alleged violation(s) for one</p>	<p>Section 6. 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 7. 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 8. 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> <p>Except as hereinafter provided in this Article, any member of MAPE may file a complaint against any MAPE member or individual who was a MAPE member at the time of the alleged violation(s) for one</p>
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or more violations as provided in Section 2 of this Article. All complaints for one or more violations as provided in Section 2 of this Article shall be addressed solely by the procedure described herein. No penalties for any violation as provided in Section 2 of this Article shall be imposed on members, or individuals who were members at the time of the alleged violation, without a finding of guilt by the Judicial Committee, or upon appeal, the Board of Directors.

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.~~ 1. Misappropriation, embezzlement, or illegal use of union funds;
- ~~3.~~ 2. Acting in collusion with management to the detriment of the welfare of MAPE or its membership;
4. 3. Any activity which assists or is intended to assist a competing organization within the jurisdiction of MAPE;

or more violations as provided in Section 2 of this Article. All complaints for one or more violations as provided in Section 2 of this Article shall be addressed solely by the procedure described herein. No penalties for any violation as provided in Section 2 of this Article shall be imposed on members, or individuals who were members at the time of the alleged violation, without a finding of guilt by the Judicial Committee, or upon appeal, the Board of Directors.

Section 2. Basis for Complaint.

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

1. Misappropriation, embezzlement, or illegal use of union funds;
2. Acting in collusion with management to the detriment of the welfare of MAPE or its membership;
3. Any activity which assists or is intended to assist a competing organization within the jurisdiction of MAPE;
4. Conviction of a crime, the nature of which is such to bring MAPE as an organization into disrepute;
5. 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>5- <u>4</u>. Conviction of a crime, the nature of which is such to bring MAPE as an organization into disrepute;</p> <p>6- <u>5</u>. 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 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> <p>7- <u>6</u>. 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;</p> <p>8- <u>7</u>. Using the name MAPE or of any subordinate body in an unauthorized manner or for an unauthorized purpose;</p> <p>9- <u>8</u>. Using MAPE membership information in an unauthorized manner or for an unauthorized purpose;</p> <p>10- <u>9</u>. Deliberately interfering with any official of MAPE or of a Local or Region in the discharge of the official's lawful duty;</p> <p>11- <u>10</u>. The solicitation or acceptance of a bribe or the acceptance of a gift of more than</p>	<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> <p>6. 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;</p> <p>7. Using the name MAPE or of any subordinate body in an unauthorized manner or for an unauthorized purpose;</p> <p>8. Using MAPE membership information in an unauthorized manner or for an unauthorized purpose;</p> <p>9. Deliberately interfering with any official of MAPE or of a Local or Region in the discharge of the official's lawful duty;</p> <p>10. 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> <p>Section 3. Filing of Complaint.</p>
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<p>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> <p>Section 3. Filing of Complaint.</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 <u>or electronic mail</u>, 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>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, 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 or electronic 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 proceedings will be available to the respondent or the complainant, without cost, upon request.</p>
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<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 proceedings will be available to the respondent or the complainant, without cost, upon request.</p> <p>Section 7. Rights of the Respondent.</p> <p>The respondent shall be guaranteed the following rights:</p> <ol style="list-style-type: none">1. The right to receive by certified mail <u>or electronic mail</u> 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;	<p>Section 7. Rights of the Respondent.</p> <p>The respondent shall be guaranteed the following rights:</p> <ol style="list-style-type: none">1. The right to receive by certified mail or electronic 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;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
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<ol style="list-style-type: none">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;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;11. The right to appeal, in the manner hereinafter provided;12. The right to choose either an open or closed hearing. <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;	<p>papers, books, or financial or other records which are the property of the union and which are pertinent to the case;</p> <ol style="list-style-type: none">11. The right to appeal, in the manner hereinafter provided;12. The right to choose either an open or closed hearing. <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;6. The right to compel the production of union records pertinent to the cases;7. The right to choose a person to act as the complainant's counsel in the case;
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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 respondent;</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>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, a copy of which shall remain on file at the MAPE Central office for one year following the date of Committee’s decision. The formal reprimand shall be available to any member in good standing upon request to the Statewide President or Executive Director;</div></div>
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<ol style="list-style-type: none">1. A formal reprimand, accompanied by a formal warning against any repetition of the act or acts of which the respondent is found guilty, <u>a copy of which shall remain on file at the MAPE Central office for one year following the date of Committee's decision.</u> <u>The formal reprimand shall be available to any member in good standing upon request to the Statewide President or Executive Director;</u>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 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. <p>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.</p> <p>Section 11. False Complaint.</p>	<ol style="list-style-type: none">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 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. <p>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.</p> <p>Section 11. False Complaint.</p> <p>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</p>
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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 or electronic 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

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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.

Appendix A. Timelines

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.

Appendix A. Timelines

The timeline of events for the Judicial Procedure and Judicial Committee per Article XII and XIII are as follows:

- Within 15 days after the receipt of the complaint, the Chair of the Judicial Committee shall send a copy of the complaint and this Article of the bylaws to the respondent.
- Within 30 days after the Chair sent a list of names of the Judicial Committee members, each party may delete three names from the list.
- No later than 120 days after the respondent was notified of the complaint, and no later than 90 calendar days after the complaint was filed, the initial hearing will be held.
- At least 15 days prior to the hearing, the complainant and respondent will be notified of the date, time, and place of the hearing.
- Within 60 days of the final hearing the Committee will render a decision and send a copy of their decision to the complainant, respondent, and counselors of record.

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- At least 15 days prior to the hearing, the complainant and respondent will be notified of the date, time, and place of the hearing.
- Within 60 days of the final hearing the Committee will render a decision and send a copy of their decision to the complainant, respondent, and counselors of record.
- Within 30 days following receipt of the decision, appeals may be filed with the MAPE Board of Directors.

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