

2020 MAPE DELEGATE ASSEMBLY RESOLUTION

Establishing a Procedure for Resolving Disputes of MAPE's Governing Documents and Policies

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 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.

Members should not be deterred, by fear of penalty, from filing complaints related to MAPE's Governing Document and Policy. Instances where a member abuses the complaint process for malicious intentions may be handled through a harassment complaint.

This Article creates a committee that is meant to serve as a jury, allowing the complainant and respondent input into the selection process of the committee members, and promoting an independent and impartial hearing body.

The Constitutional Rules Committee, as subject-matter experts regarding MAPE's Governing Documents and Policies, will help the hearing body interpret the Governing Documents and Policies and create some consistency among decisions.

Because Local Presidents are generally removed from events that occur outside of their local and also are generally informed of MAPE's Governing Documents and Policies, they will generally be an unbiased yet informed pool of members to select from when creating the hearing body.

This resolution is affected by the final language of the resolution titled Establishing the Judicial Procedure as the Sole Procedure for Resolving Complaints by Members and should be considered after that resolution.

Therefore be it resolved that Article XVIII shall be established, as shown below, to create a single consistent procedure for resolving Disputes of MAPE's Governing Documents and Policies.

Therefore be it further resolved that by December 31, 2020, the Board of Directors shall modify the Policy Against Discrimination and Harassment to align it with the Governing Documents or Policies Dispute Procedure.

Passed by	Date
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Tabatha Ries-Miller	7/2/20
Kay Pedretti	7/2/20
John Ferrara	7/2/20

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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><u>Article XVIII - Governing Documents or Policies Dispute Procedure</u></p> <p><u>Section 1. Policy Hearing Committee.</u></p> <p><u>A. Purpose.</u></p> <p><u>The purpose of the Policy Hearing Committee is to consider and respond to complaints filed under this Article. All complaints for one or more violations as provided in Section 2 of this Article are the sole jurisdiction of the Policy Hearing Committee. All timelines stated herein this Article may be adjusted upon mutual agreement of the complainant, respondent, and Policy Hearing Committee Chair. Any complaint not covered by Section 2 of this Article shall be subject to the Judicial Procedure pursuant to Article XIII.</u></p> <p><u>B. Selection of the Chair.</u></p> <p><u>After a complaint is properly filed pursuant to Section 2 of this Article, the Statewide President will notify the Constitutional Rules Committee. One member of the Constitutional Rules Committee, selected by a majority vote of the Committee, will become the Chair of the Policy Hearing Committee. The Chair shall serve as the hearing officer, who shall conduct the hearing. The Chair shall serve as a consultant on MAPE's Governing Documents or Policies, and shall not be a voting member of the Committee.</u></p>	<p>Article XVIII - Governing Documents or Policies Dispute Procedure</p> <p>Section 1. Policy Hearing Committee.</p> <p>A. Purpose.</p> <p>The purpose of the Policy Hearing Committee is to consider and respond to complaints filed under this Article. All complaints for one or more violations as provided in Section 2 of this Article are the sole jurisdiction of the Policy Hearing Committee. All timelines stated herein this Article may be adjusted upon mutual agreement of the complainant, respondent, and Policy Hearing Committee Chair. Any complaint not covered by Section 2 of this Article shall be subject to the Judicial Procedure pursuant to Article XIII.</p> <p>B. Selection of the Chair.</p> <p>After a complaint is properly filed pursuant to Section 2 of this Article, the Statewide President will notify the Constitutional Rules Committee. One member of the Constitutional Rules Committee, selected by a majority vote of the Committee, will become the Chair of the Policy Hearing Committee. The Chair shall serve as the hearing officer, who shall conduct the hearing. The Chair shall serve as a consultant on MAPE's Governing Documents or Policies, and shall not be a voting member of the Committee.</p>

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C. Policy Hearing Committee Selection.

The Chair of Policy Hearing Committee will appoint 5 additional members to the Committee, selecting among Local Presidents, on a rotating basis. Within 14 days of receipt of the complaint, the Policy Hearing Committee Chair shall send a list of the names of the members of the Policy Hearing Committee to the complainant and the respondent. Within 7 days thereafter, each party shall have the opportunity to delete one name from the list of Policy Hearing Committee members, except for the Chair, by written notification to the Chair. If a Policy Hearing Committee member is unable to participate in the hearing(s) due to extenuating circumstances, the Chair shall appoint a replacement member, selected among the Local Presidents, excluding any members previously deleted by the complainant or respondent.

D. Terms of Office.

Terms of the Policy Hearing Committee will expire following the rendering of the Committee's decision or the Board of Directors' appeal decision, whichever is later.

E. Documentation of Decisions.

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

1. A statement of complaint;

C. Policy Hearing Committee Selection.

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Terms of the Policy Hearing Committee will expire following the rendering of the Committee's decision or the Board of Directors' appeal decision, whichever is later.

E. Documentation of Decisions.

Decisions of the Policy Hearing 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.

F. Communication of Decisions.

Within 10 days of the final hearing, a copy of the decision of the Policy Hearing 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 Policy Hearing Committee.

G. Notice.

A written communication or required notice to the Policy Hearing Committee or any member thereof shall be sent to the Policy Hearing Committee Chair at the MAPE Central office.

H. Reporting.

Each Policy Hearing 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

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Committee. The Committee report shall call attention to pertinent omissions or ambiguities in governing documents and policies and may offer recommendations. The report shall not include the names of any parties involved in complaints of discrimination and/or harassment.

I. Staff Assistance.

The Policy Hearing Committee shall be provided with staff assistance and facilities as are necessary and appropriate to the proper functioning of the Policy Hearing Committee in accordance with policies established by the MAPE Board of Directors.

Section 2. Filing Complaint.

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 or more violations as provided in Section 2 of this Article. All complaints for one or more violations as provided in Section 2A of this Article shall be addressed solely by the procedure described herein. No penalties for any violation as provided in Section 2A 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 Policy Hearing Committee, or upon appeal, the Board of Directors.

A. Basis for Complaint.

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A. Basis for Complaint.

The basis for filing a complaint under this Article shall be a 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 is subject. No other violations shall constitute the basis for the filing of a complaint under this Article.

B. Format of Complaint.

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 Statewide President, or if the Statewide President is the respondent, the Statewide Vice President.

C. Notification of Complaint.

Within 14 days following the receipt of the complaint, the Chair of the Policy Hearing Committee shall send by 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.

Section 3. Recording Hearing Proceedings.

The Policy Hearing 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

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Section 3. Recording Hearing Proceedings.

The Policy Hearing 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 digital copy of the recorded proceedings will be available to the respondent or the complainant, without cost, upon request.

Section 4. Rights of the Respondent.

The respondent shall be guaranteed the following rights:

1. The right to receive by electronic mail to the respondent's current address of record with MAPE, return receipt requested, a full copy of the complaint within 14 days after they are filed;
2. The right to a hearing within 30 days after having been notified under provisions in Section 2C of this Article;
3. The right to have a least 5 days' advance notice of the date, time, and place of the hearing;
4. The right to question the complainant and any witnesses;
5. The right to present witnesses on the respondent's behalf;
6. The right to compel the production of union records pertinent to the case;
7. The right to choose a person to act as the respondent's counsel in the case;
8. The right to be presumed innocent unless proven guilty;

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Section 4. Rights of the Respondent.

The respondent shall be guaranteed the following rights:

1. The right to receive by electronic mail to the respondent's current address of record with MAPE, return receipt requested, a full copy of the complaint within 14 days after they are filed;
2. The right to a hearing within 30 days after having been notified under provisions in Section 2C of this Article;
3. The right to have a least 5 days' advance notice of the date, time, and place of the hearing;
4. The right to question the complainant and any witnesses;
5. The right to present witnesses on the respondent's behalf;
6. The right to compel the production of union records pertinent to the case;
7. The right to choose a person to act as the respondent's counsel in the case;
8. The right to be presumed innocent unless proven guilty;

<p>9. <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;</u></p> <p>10. <u>The right to appeal, in the manner hereinafter provided;</u></p> <p>11. <u>The right to choose either an open or closed hearing, except in complaints of discrimination and/or harrassment. All complaints of discrimination and/or harrassment shall have a closed hearing.</u></p> <p><u>Section 5. Rights of the Complainant.</u></p> <p><u>Complainant shall be guaranteed the following rights:</u></p> <p>1. <u>The right to have the initial hearing no later than 45 calendar days after the complaint was filed;</u></p> <p>2. <u>The right to have at least 5 days' advance notice of the date, time, and place of the hearing;</u></p> <p>3. <u>The right to give personal testimony;</u></p> <p>4. <u>The right to present witnesses testimony pertinent to the alleged violation(s) ;</u></p> <p>5. <u>The right to question witnesses presented by the respondent;</u></p>	<p>9. 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>10. The right to appeal, in the manner hereinafter provided;</p> <p>11. The right to choose either an open or closed hearing, except in complaints of discrimination and/or harrassment. All complaints of discrimination and/or harrassment shall have a closed hearing.</p> <p>Section 5. Rights of the Complainant.</p> <p>Complainant shall be guaranteed the following rights:</p> <p>1. The right to have the initial hearing no later than 45 calendar days after the complaint was filed;</p> <p>2. The right to have at least 5 days' advance notice of the date, time, and place of the hearing;</p> <p>3. The right to give personal testimony;</p> <p>4. The right to present witnesses testimony pertinent to the alleged violation(s) ;</p> <p>5. The right to question witnesses presented by the respondent;</p>
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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;
8. The right to appeal in the manner hereinafter provided.

Section 6. Obligations of the Complainant.

The complainant shall be under the following obligations:

1. To file the original complaint in sufficient detail as to afford the respondent full opportunity to prepare a defense;
2. To appear in person at the hearing;
3. To assume the burden of proof.

Section 7. Penalties.

The Policy Hearing 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 shall be limited to those dictated by the provision of MAPE's Governing Documents or Policies that was violated. Where the provision of MAPE's Governing Documents or Policies does not dictate penalties, the penalties may be any one or more of the following:

1. A formal reprimand, accompanied by a formal warning against any repetition of the

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;
8. The right to appeal in the manner hereinafter provided.

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1. To file the original complaint in sufficient detail as to afford the respondent full opportunity to prepare a defense;
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1. A formal reprimand, accompanied by a formal warning against any repetition of the

<p><u>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;</u></p> <ol style="list-style-type: none">2. <u>Full or partial restitution, where the consequences of the offense can be measured in material terms;</u>3. <u>Removal from positions in the union at the level at which the complaint originated;</u>4. <u>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 two years;</u>5. <u>Suspension from the right to seek or hold any elected or appointed position at any level of MAPE for a period not to exceed two years;</u> <p><u>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.</u></p> <p><u>Section 8. Decisions of the Policy Hearing Committee.</u></p> <p><u>All decisions of the Policy Hearing Committee must meet the standard of preponderance of evidence. A finding of guilt can only occur by an affirmative vote</u></p>	<p>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;</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 two 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 two 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 8. Decisions of the Policy Hearing Committee.</p> <p>All decisions of the Policy Hearing Committee must meet the standard of preponderance of evidence. A finding of guilt can only occur by an affirmative vote</p>
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of a majority of the Policy Hearing Committee. The Policy Hearing Committee must render all decisions within 10 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 electronic mail, return receipt requested, to the complainant and to the respondent simultaneously.

Section 9. Appeal Procedure.

Either party may, within 14 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 Policy Hearing Committee was in error and the nature of the error. The complainant, respondent, and the Policy Hearing Committee shall have the right to present to the Board of Directions at time the appeal is heard by the Board.

Appendix A. Procedure Timeline.

Pursuant to Section 1A of Article XVIII, all timelines may be adjusted upon mutual agreement of the complainant, respondent, and Policy Hearing Committee Chair. Notwithstanding, the timeline of events are as follows:

of a majority of the Policy Hearing Committee. The Policy Hearing Committee must render all decisions within 10 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 electronic mail, return receipt requested, to the complainant and to the respondent simultaneously.

Section 9. Appeal Procedure.

Either party may, within 14 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 Policy Hearing Committee was in error and the nature of the error. The complainant, respondent, and the Policy Hearing Committee shall have the right to present to the Board of Directions at time the appeal is heard by the Board.

Appendix A. Procedure Timeline.

Pursuant to Section 1A of Article XVIII, all timelines may be adjusted upon mutual agreement of the complainant, respondent, and Policy Hearing Committee Chair. Notwithstanding, the timeline of events are as follows:

<ul style="list-style-type: none">• <u>Within 14 days after the receipt of the complaint, the Policy Hearing Committee Chair shall:</u><ul style="list-style-type: none">◦ <u>Send a copy of the complaint and this Article of the bylaws to the complainant and respondent.</u>◦ <u>Send a list of names of the Policy Hearing Committee members to the complainant and respondent.</u>• <u>Within 7 days after the Chair sent a list of names of the Policy Hearing Committee members, each party may delete one name from the list.</u>• <u>No later than 30 days after the respondent was notified of the complaint, and no later than 45 calendar days after the complaint was filed, the initial hearing will be held.</u>• <u>At least 5 days prior to the hearing, the complainant and respondent will be notified of the date, time, and place of the hearing.</u>• <u>Within 10 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.</u>• <u>Within 14 days following receipt of the decision, appeals may be filed with the MAPE Board of Directors.</u> <p><u>Nothing in this Appendix shall supersede Article XVIII - Governing Documents or Policies Dispute Procedure.</u></p>	<ul style="list-style-type: none">• Within 14 days after the receipt of the complaint, the Policy Hearing Committee Chair shall:<ul style="list-style-type: none">◦ Send a copy of the complaint and this Article of the bylaws to the complainant and respondent.◦ Send a list of names of the Policy Hearing Committee members to the complainant and respondent.• Within 7 days after the Chair sent a list of names of the Policy Hearing Committee members, each party may delete one name from the list.• No later than 30 days after the respondent was notified of the complaint, and no later than 45 calendar days after the complaint was filed, the initial hearing will be held.• At least 5 days prior to the hearing, the complainant and respondent will be notified of the date, time, and place of the hearing.• Within 10 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 14 days following receipt of the decision, appeals may be filed with the MAPE Board of Directors. <p>Nothing in this Appendix shall supersede Article XVIII - Governing Documents or Policies Dispute Procedure.</p>
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