

# **MEMBERSHIP DISCIPLINE: PSAC REGULATION 19**

(As amended June 8, 2004)

Pursuant to the authority and power vested under the Constitution of the Public Service Alliance of Canada, in Section 12 thereof, the National Board of Directors hereby enacts as follows:

## **REGULATION GOVERNING MEMBERSHIP DISCIPLINE**

1. The National Board of Directors, in accordance with Section 25 of the Constitution, retains the authority to suspend or expel from membership any PSAC officer or member.
2. In accordance with this Regulation, a Regional Council, Component, Local or Area Council shall have the authority to remove from an office of the body concerned any member who is found to be in contravention of the Constitution as specified in Sub-Section (5) of Section 25 or the Component, Local or Area Council By-Laws.
3. In accordance with the procedure outlined in this Regulation, a Component or Local may recommend the suspension or expulsion from membership of any member of that body.
4. Any and all charges against a member shall be placed in writing, signed by the member or members making the charge or charges, and shall be submitted to the member(s) concerned and the appropriate body for consideration.
5. Any charge or charges which are found to be frivolous or intended to harass, embarrass, or discredit a member or members may result in disciplinary proceedings under Section 25, Sub-Section (5)(e) and/or (g).
6. The procedure for the handling of disciplinary charges at the Local level shall be as follows:
  - (a) The Local shall establish an internal or external impartial review committee consisting of three people to investigate and assess the charges, including the receipt of oral and written evidence.
  - (b) The member(s) charged with misconduct shall be provided a copy of the charges and, both the members making the charge and member(s) charged will be afforded the right to appear before the Committee.
  - (c) The Committee findings and recommendations shall be submitted to the Local executive and, if disciplinary action is recommended, the Committee's report shall be placed before a special or general meeting of the Local and shall be subject to the acceptance of two-thirds of those members in attendance; except only that the member(s) initiating disciplinary action against another member(s),

- and the accused member(s) shall be denied voice and vote during the decision-making process.
- (d) Reports of the Committee established in Section 6(a) of this Regulation shall consist of one or two parts depending on whether the allegation is upheld by the Committee.
  - (e) Part I: will include a finding of fact that either confirms or not that the members have violated the PSAC Constitution or Component, Local, Regional Council or Area Council By-Laws. This part of the report cannot be amended, however is subject to a simple majority vote to receive it.  
Part II: would recommend the specific disciplinary action in the event that the Committee finds that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws.
  - (f) If the Local meeting accepts a recommendation of removal from office, the Local executive shall convey that decision to the member or members concerned together with written notice that an appeal may be submitted to the Component national body.
  - (g) If the Local meeting accepts a recommendation to suspend or expel from membership, the Local executive shall forthwith advise the Component President in writing together with all relevant documentation. The Component President, after satisfying himself/herself of the seriousness of the offence, shall submit the matter to the National Board of Directors for decision.
7. A charge or charges against elected officers of a Component national body shall be submitted to that body in writing and shall be dealt with as follows:
- (a) The members of the national body against whom the charge or charges have not been alleged shall appoint an internal or external impartial review committee of three people to investigate and assess the charges and receive evidence.
  - (b) The member(s) charged with misconduct shall be provided a copy of the charges and, both the members making the charge and those member(s) charged will be afforded the right to appear before the Committee.
  - (c) The Committee findings and recommendations shall be submitted to the Component national body and, if disciplinary action is recommended, shall be subject to acceptance by a two-thirds majority vote of those members against whom the charge or charges have not been alleged, except only that the member(s) initiating disciplinary action against another member(s), and the accused member(s) shall be denied voice and vote during the decision-making process.
  - (d) Reports of the Committee established in Section 7(a) of this Regulation shall consist of one or two parts depending on whether the allegation is upheld by the Committee.
  - (e) Part I will include a finding of fact that either confirms or not that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws. This part of the report cannot be amended, however, is subject to a simple majority vote to receive it.

Part II would recommend the specific disciplinary action in the event that the Committee finds that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws.

- (f) If the recommendation is to remove from office, written notice to that effect shall be given to the officer or officers concerned together with the notice that an appeal to the National Board of Directors may be lodged.
- (g) If the recommendation is to suspend or expel from membership, the Component President shall submit such recommendation to the National Board of Directors together with all relevant documentation.

8. The procedure for the handling of disciplinary charges at the Area Council level shall be as follows:

- (a) The Area Council shall establish an internal or external impartial review committee consisting of three people to investigate and assess the charges, including the receipt of oral and written evidence.
- (b) The member(s) charged with misconduct shall be provided a copy of the charges and, both the members making the charge and those member(s) charged will be afforded the right to appear before the Committee.
- (c) The Committee findings and recommendations shall be submitted to the Area Council executive and, if disciplinary action is recommended, the Committee's report shall be placed before a special or general meeting of the Area Council and shall be subject to the acceptance of two-thirds of those members in attendance, except only that the member(s) initiating disciplinary action against another member(s), and the accused member(s) shall be denied voice and vote during the decision-making process.
- (d) Reports of the Committee established in Section 8(a) of this Regulation shall consist of one or two parts depending on whether the allegation is upheld by the Committee.
- (e) Part I: will include a finding of fact that either confirms or not that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws. This part of the report cannot be amended, however, is subject to a simple majority vote to receive it.  
Part II: would recommend the specific disciplinary action in the event that the Committee finds that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws.
- (f) If the Area Council meeting accepts a recommendation of removal from office, the Area Council executive shall convey that decision to the member or members concerned together with written notice that an appeal may be submitted to the Alliance Executive Committee through the Executive Vice-President responsible for Area Councils.

9. A charge or charges against an officer of the National Board of Directors shall be submitted in writing to the Alliance Executive Committee, except as provided in paragraph 10, and shall be dealt with as follows:

- (a) The Alliance Executive Committee shall appoint an internal or external impartial review committee of three people, against whom the charge or charges have not

- been alleged, to investigate and assess the charges including the receipt of oral and written evidence.
- (b) The officer or officers charged with misconduct shall be provided a copy of the charges and, both the members making the charge and those officer(s) charged will be afforded the right to appear before the Committee.
  - (c) The Committee findings and recommendations shall be submitted to the National Board of Directors and, if disciplinary action is recommended, shall be subject to acceptance by a two-thirds majority vote of those Board members against whom the charge or charges have not been alleged, except only that the member(s) initiating disciplinary action against another member(s), and the accused member(s) shall be denied voice and vote during the decision-making process.
  - (d) Reports of the Committee established in Section 9(a) of this Regulation shall consist of one or two parts depending on whether the allegation is upheld by the Committee.
  - (e) Part I will include a finding of fact that either confirms or not that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws. This part of the report cannot be amended, however, is subject to a simple majority vote to receive it.  
Part II would recommend the specific disciplinary action in the event that the Committee finds that the member or members have violated the PSAC Constitution or Component, Local or Area Council By-Laws.
  - (f) If a recommendation for disciplinary action is taken, written notice shall be given to the officer or officers concerned together with the advice that an appeal to the Triennial Convention may be lodged.

10. Where a charge or charges of misconduct is alleged against an officer of the Alliance Executive Committee, the written allegation shall be submitted directly to the National Board of Directors and, at its next regular meeting, the National Board of Directors shall establish an internal or external impartial review committee to deal with the matter in accordance with paragraph 9(b) and (f) inclusive.

11. Any member charged with misconduct shall not be a member of the Committee established to investigate the allegation(s), and shall not participate in the vote to accept or reject the findings and recommendations of such a committee. For greater clarification, where more than one member is charged with a similar offence, such as crossing a picket line (Section 25, Sub-Section (5)(n)), the member(s) charged will not be member(s) of the Committee established to investigate the allegation(s), and shall not participate in the vote to accept or reject the findings and recommendations of such a committee.

12.(a) A decision to implement disciplinary action under the provisions of Sub-Sections (1) or (2) of Section 25 of the Constitution, the applicable Component, Local or Area Council By-Laws may be appealed to a three-person tribunal empowered to hear appeals. A written notification of the individual's intent to appeal must be submitted to the National President within 60 calendar days of receipt of the disciplinary notification.

- (b) The Tribunal shall be comprised of a representative of the appellant, a representative of the appropriate PSAC body and a third independent person agreed to by both parties or appointed by an appropriate labour organization such as a Canadian Labour Congress affiliated union, a Federation of Labour or the Canadian Labour Congress, as determined by the AEC. The appellant shall not be a member of the Appeal Tribunal. The representative of the appropriate PSAC body must not have a conflict of interest in the outcome nor have been involved in the process or the decision to suspend.
- (c) The decision of the tribunal shall be final and binding on all parties to the appeal.

13. The Tribunal shall be established within a two-month period unless the timeframe is extended by:

- (a) mutual agreement of the parties concerned; or
- (b) the AEC if it determines that extenuating circumstances prohibit the establishment of the Tribunal within the above-noted timeframe.

14. The PSAC Centre shall be responsible for the cost of the hearing and the expenses of the Chairperson except as follows:

- (a) Each party will be responsible for his/her own expenses, except that if the appellant's appeal is successful, the appellant may be entitled to reasonable expenses as determined by the National Board of Directors. Such expenses shall be paid by the applicable level of the Public Service Alliance of Canada.
- (b) The expenses of the member of the Tribunal appointed by the appellant, including any per diem or salary required, shall be borne by the appellant.
- (c) When a PSAC Component/Local or Area Council takes disciplinary action against a member and an appeal is lodged with the Public Service Alliance of Canada, the PSAC Component/Local or Area Council member of the Tribunal will be appointed by that Component/Local or Area Council, and the Component/Local or Area Council will be solely responsible for his/her expenses.
- (d) Each party shall normally be responsible for any expenses incurred as a result of testimony from any witness they wish to call. However, where the appeal is upheld, the appellant may, in extenuating circumstances, request full or partial payment of reasonable expenses incurred by witnesses for the appellant. Such expenses, whose reasonableness shall be determined solely by the National Board of Directors, shall be paid by the applicable level of the Public Service Alliance of Canada.

15. Upon submission of supporting documents, a member(s) may seek reinstatement of their membership through the appropriate level of the PSAC. Should a request for reinstatement of membership be denied, the member(s) concerned may appeal the decision to the National Board of Directors whose decision is final and binding.

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

- (a) When provision is made in the Component 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 Component By-Laws for a vote by representatives of the particular constituency represented by the officer proposed for removal from office.

17. Notwithstanding the procedures contained in the previous paragraphs of this Regulation, disciplinary action may be initiated in accordance with Section 25 of the PSAC Constitution at a higher level than where the actions giving rise to disciplinary action occurred.

18. The procedure for dealing with any disciplinary situation which may arise which is not specifically covered under this Regulation shall be deemed to be covered and processed within the spirit and intent of this Regulation.

19. Notwithstanding any previous provisions of this Regulation, in the case of an alleged violation of Section 25, Sub-Section (5)(n) of the PSAC Constitution, the following procedures may be utilized:

- (a) At the Local level, the alleged violation of Section 25, Sub-Section (5)(n) will be signed by a Local member and submitted to the Local Discipline Committee or Local Executive for study and recommendation to a general membership meeting. The member alleged to have violated Section 25, Sub-Section (5)(n) will be notified in writing, notified of the general membership meeting and given an opportunity to make representation at the Local meeting. The decision of the general membership meeting will be forwarded to the Component President in writing together with all relevant documentation. The Component President, after satisfying himself/herself that the proper procedure has been followed, shall submit the matter to the National Board of Directors for decision; or
- (b) At the Component national or regional level, upon receipt of an alleged violation of Section 25, Sub-Section (5)(n) signed by a Local member, an assigned Component National Officer shall notify the member charged, conduct an investigation providing an opportunity for the member charged to make representation and prepare a written report for the Component President. The Component President shall submit the written report to an executive body of the Component for its review and recommendation. The Component President, after satisfying himself/herself that the proper procedure has been followed shall submit the matter to the National Board of Directors for decision.

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