

C #16

Subject: ARTICLE XV, SECTIONS 1-4 CHARGE AND TRIAL BOARD

Submitted by: Peter Brunette, Chair, Ethics Committee

Category: Constitutional Amendment

Whereas there is an acknowledged need for a workable dispute resolution and charge and trial process.

Whereas disputes between members should be resolved at the lowest level possible.

Whereas judicial efficiency of processing disputes is of the utmost importance.

Whereas the Ethics Committee can be effective in identifying, sorting, and resolving types of disputes.

Whereas SEA representatives acting in good faith in the due course of their duties should be protected from unnecessary process, hindrance, and litigation for business decisions they make.

Therefore, be it resolved that Article XV be amended as follows to provide for a greater level of prehearing dispute resolution prior to formal charge and trial proceedings, that the Ethics Committee be empowered to serve as a gatekeeper to charge and trial proceedings, that agents of the association be protected from good faith actions taken on behalf of the Association, and that the process of charge and trial be altered in favor of judicial efficiency without sacrificing the rights of the parties.

Proposed New Language

ARTICLE XV -- CHARGE AND TRIAL BOARD ~~AND RESOLUTION OF DISPUTES~~

For the good of individual members and of the Association as a whole, the Association provides dispute resolution options intended to resolve disputes at the lowest possible level and expense. The Trial Board is composed of the Trial Board Chairperson and members of the Trial Board Pool. The Board holds hearings for formal dispute resolution.

Section 1. FORMATION AND RESPONSIBILITIES OF THE TRIAL BOARD (a) The Trial Board: The Board of Directors shall appoint a Trial Board Chairperson at its first meeting after the annual convention. Within three months of this appointment, the Chairperson will recruit a five-member trial board pool to be approved by the SEA board of directors. Current members of the SEA board of directors will not be allowed to serve on the trial boards. The trial board chairperson may, with approval of the SEA board of directors, replace a member of the trial board pool, provided that no such replacement shall affect the course of an ongoing trial proceeding. The trial board chairperson may request from the SEA board of directors the appointment of additional trial pools

members to serve on an ad hoc basis if there are not enough members of the trial pool.

(b) The Chairperson: The Chairperson shall serve as the presiding officer at all hearings before the Trial Board and shall have the authority to issue rulings and decisions concerning the conduct of such hearings. The Chairperson will act in neutrality and transparency in all processes of the trial board. Before reviewing any cases the Chairperson will produce procedures that will govern the conduct of any hearings brought before the trial board. These procedures will be reviewed and approved by the SEA board of directors. These procedures will remain in effect until the next Chairperson is selected after the next annual convention.

Section 2. ~~PRE-CHARGE DISPUTE RESOLUTION~~ INFORMAL RESOLUTION

- (a) ~~The Association's goal is to resolve disputes between members at the lowest possible level. All parties involved in a dispute that may result in the filing of formal charges are requested to exhaust all informal dispute resolution remedies before filing formal charges under this procedure.~~
- (b) An individual member who has a complaint against another member regarding a union-related activity which he/she **the individual** believes rises to the level of a formal complaint **charge** should shall first attempt to resolve **exhaust all informal dispute resolution remedies before filing formal charges.**
- (b) **The first informal remedy shall be a discussion. The individual member with the complaint shall attempt to resolve** the problem by discussing it with the member. **At the request of either of these parties, A a neutral member person** may be present at the discussion at the request of either member. **If a neutral person is requested, the Association Ethics liaison shall appoint said person.**
- (c) **If the parties cannot resolve the disagreement using the first informal remedy, the parties shall utilize the services of the Dispute Resolution Committee.**
- (d) If the parties cannot mutually resolve the disagreement **using the second informal remedy**, the **third informal remedy shall be** parties involved may request the assistance of a mediator. ~~to be appointed by the~~ **The chairperson of the trial board chairperson shall appoint the mediator.** If this option is **necessary** requested, the parties will be required to **shall** agree to good faith mediation within thirty (30) calendar days of the **mediator appointment** request.
- (e) If there is no resolution following the above steps, **only then may** a member may then file formal charges. **Notwithstanding the preceding statement, a member may file formal charges in order to maintain requisite timelines described in Section 4, but no hearing may go forward until the informal dispute process is completed.**

Section 3. FORMAL CHARGES

(a) Any member may be charged with acts considered detrimental to the Association.

(b) Acts considered detrimental to the Association include, but are not limited to, the following:

- (1) Violation(s) of any specific provision(s) of the SEIU Constitution SEIU Local 1984 Constitution, SEIU Local 1984 Policies or Chapter Bylaws;
- (2) Violation(s) of an oath of office;
- (3) If an officer, gross inefficiency, which might hinder and impair the interests of the Union;
- (4) Financial malpractice;
- (5) Engaging in corrupt or unethical practices or racketeering;
- (6) Advocating or engaging in dual unionism, including but not limited to aiding a rival labor organization in actions against the interests of the Association;
- (7) The wrongful taking or retaining of any money

interests of the Association; (7) The wrongful taking or retaining of any money, books, papers or any other property belonging to the Association; or the wrongful destruction, mutilation or erasure of any books, records, bills, receipts, vouchers, or other property belonging to Association;

- (2) **Officers of the Association and Chapters, Association Board Members, or any members acting on behalf of the Association shall all be immune to claims when the nature of the claims against the officer pertain solely to political or business decision(s) made by the officer in good faith and made in the due course of executing his/her duties as an officer or agent of the Association. Assessment of whether such immunity applies shall be in accordance with Filing of Charges procedures identified below.**

Section 4. FILING OF CHARGES

The Charge and Trial Board and Ethics Committee shall abide by, act in accordance with, and aspire to follow the guidance of the Association Ethics policy in carrying out all duties as described in this Article.

(a) Whenever charges are preferred against any member or SEIU Local 1984, the charges shall be filed with the Chairperson of the Trial Board.

(b) All charges shall be in writing and shall set forth the specific facts that are the basis of the complaint, including the nature, date or timeframe and/or when applicable, the location of the offense. The written charge must also identify the provisions of the SEIU or SEIU 1984 Constitution, Board Policy, or Chapter By-laws that have been allegedly violated.

(c) No charges may be filed more than six months after the charging party learned or could have reasonably learned of the act or acts that are the basis for the charges.

(d) Upon receipt of the charges, the Chairperson of the Trial Board shall send copies to the person(s) accused in the charge and members of the trial board.

(e) Before proceeding to a formal hearing, the Chairperson **will submit the filing and any and all accompanying documents to the SEA Ethics Chairperson.** ~~and one member of the Trial Pool will perform a preliminary review of all submitted documents to determine if they provide clear examples of what provisions of the SEA rules or policies have been violated and how they were violated. Should it be determined that the submitted documents are vague and do not clearly identify the details of the charges and applicable provisions of the Association's rules or policies, the charges will be deferred and the submitting party will be provided with a written reason for the decision of the Trial Board Chairperson. *The intent of Section five should not be construed to mean that the **The** Trial Board has the **no** authority to make summary judgments or dismiss any charges brought before them without conducting a hearing.~~

~~(f) In the case that a charge is deferred, the charging party has the right to re-file a more detailed charge in compliance with this section. Should the charging party fail to re-file the complaint within the prescribed six month time frame outlined in Section 3 (d) (3) the charges will be considered vacated and the Chairperson will issue a written notice to the parties involved documenting the closure of the case.~~

(f) Upon receipt of the charges from the Charge and Trial chairperson, the Ethics Committee chairperson shall convene the Ethics committee, acting with the advice of the SEA/SEIU ethics liaison, and shall perform a preliminary review of all submitted documents to determine if they provide:

i. Clear examples of what provisions of the SEIU or SEIU 1984 Constitution, Board Policy, or Chapter By-laws have been violated; and

ii. A detailed explanation of how SEIU or SEIU 1984 Constitution, Board Policy, or Chapter By-laws were violated.

Should it be determined that the submitted documents are vague and/or do not clearly identify the details of the charges and applicable provisions of the SEIU or SEIU 1984 Constitution, Board Policy, or Chapter By-laws, the chairperson will defer the charges and the submitting party will be provided with a written reason for the decision from the Ethics Committee chairperson. In the case that a charge is deferred, the charging party has the right to re-file a more detailed charge in

compliance with this section. Should the charging party fail to re-file the complaint within the prescribed six-month time frame outlined in Section 4(c) the charges will be considered vacated and the Ethics Committee Chairperson will issue a written notice to the Charge and Trial chairperson and the parties involved documenting the closure of the case.

(g) Upon completion of the requirements of Section 4(f) above, if the matter has not been resolved or closed, the Ethics Committee shall take any of the following actions consistent with the requirements of this Article until the matter is either resolved, dismissed, or ordered to the Charge and Trial Board for hearing:

i. Investigate the allegations in accordance with the SEA and SEIU code of ethics, constitution(s), and by-laws and take any action permissible thereunder);

ii. Dismiss the charges, in whole or in part, if the nature of the filing pertains purely to a business decision or political decision by an Association officer, chapter officer, board member, or other member acting on behalf the Association. Notice of dismissal with explanation for the reason shall be provided to all parties involved and the Charge and Trial chairperson;

iii. Order the Charge and Trial chairperson to hold a formal hearing on the filed claims, in whole or in part, pursuant to Section 5 below. Notice of said order shall be provided to all parties involved and the Charge and Trial chairperson.

(h) Conflicts of Interest- Ethics Committee members with actual or potential conflicts of interest should voluntarily remove themselves from consideration. The Ethics Committee chairperson shall make the final determination of conflict of interest. The chairperson may appoint interim ethics committee members to serve on the committee to perform the functions as described in Section 4(g) when necessary due to conflicts of interest. Any Ethics Committee member that also serves on the Charge and Trial Board shall be automatically recused from participating in any subsequent Charge and Trial proceedings from the same case.

RECOMMENDATION – Ought to Pass

_____moved that the Amendment be:

Passed Defeated Tabled until _____

Comments: This amendment was submitted by a combined committee of Ethics and the Charge and Trial chair. The constitution and bylaws committee feels this committee of experts has the best amount of knowledge to submit this amendment.