

**Rules of Procedure for All LIUNA Local Union Trial Board Hearings ¹
As Amended August 22, 1996**

Pursuant to the LIUNA Ethics and Disciplinary Procedure adopted on January 18, 1995, the following rules are hereby adopted. The rules shall take effect on May 20, 1996 and shall apply to all LIUNA Local Union Trial Board Hearings.

Rule 1. Scope and Purpose of Rules

These rules govern the procedure in all Local Union Trial Board Hearings conducted by Local Unions and District Councils of the Laborers' International Union of North America (hereafter, "LIUNA" or "the Union"). They shall be construed and administered to secure the just and speedy determination of every matter brought before a Local Union Trial Board (hereafter, "the Trial Board"), and to ensure uniformity of disciplinary process throughout the Union. The following rules shall in no way be construed to conflict with the Constitutions of LIUNA or the aforementioned LIUNA Ethics and Disciplinary Procedure.

Rule 2. Commencement of Trial Board Process

Pursuant to Article XII, Section I of the LIUNA Local Union Uniform Constitution ("Local Union Constitution"), any officer or member in good-standing of a Local Union may bring charges against any other officer or member of a Local Union, by filing written charges in duplicate with the Recording Secretary of the Local Union of which the accused is a member. These charges must be signed by the person preferring them and indicate the provisions of the Constitutions to be relied upon, or the agreement or rule alleged to have been violated. The charges must set forth the violation or wrong charged and the date on which it allegedly occurred with a level of specificity and particularity that will enable the charged party to understand the conduct with which he or she is charged and, therefore, to prepare adequately a defense against such charges.

Rule 3. Notification of Preferment and Hearing

In accordance with Article XII, Section 2 of the Local Union Constitution, the Recording Secretary, upon receipt of written charges against a member or officer of the Local Union, shall promptly notify the members of the Executive Board that charges have been filed, and after consultation with them, shall promptly set a date for a hearing and trial on the charges. Immediately

¹ These rules, while styled as Rules of Procedure for All LIUNA Local Union Trial Board Hearings, apply equally to all trial board hearings, whether before a local union, a district council, or elsewhere. These rules were originally promulgated May 20, 1996.

thereafter, a copy of the charges shall be mailed to the accused at his or her last-known address. A written notice of the time and place where the hearing and trial will take place before the Trial Board shall be mailed to the accused and to the charging party not less than seven days nor more than twenty-one days before the date of the hearing and trial.

Rule 4. Service of Materials Upon Other Parties

Any materials relating to the Trial Board Hearing that are submitted by a party to the Recording Secretary or Trial Board before, during or after the Trial Board Hearing shall also be provided at or before the time of such submittal to all other parties involved in the matter at their last-known address.

Rule 5. Computation of and Extensions of Time

(a) Computation of Time

In computing any period of time prescribed by these rules, only business days shall be included. The day of the act or event from which the designated period of time begins to run shall not be included.

(b) Enlargement of Time

The Trial Board may enlarge the time prescribed by these rules on request of any party. A request for more time shall be set forth in a letter submitted to the Recording Secretary, stating the reasons for the request. A copy of any letter requesting an extension shall be served on all other parties in accordance with Rule 4 of these Rules of Procedure.

(c) Requests for Delay of Hearing

Pursuant to Article XII, Section 3 of the Local Union Constitution, where the charging party or the accused makes a request for a delay of the Trial Board Hearing, the Trial Board may grant a postponement, for good cause shown. Such requests shall be set forth in a letter submitted to the Recording Secretary, stating the reasons for the request. A copy of the letter shall be served on all other parties in accordance with Rule 4 of these Rules of Procedure.

Rule 6. Changes to Charges

After preferring charges, if the charging party wishes to amend or supplement the charges, he or she shall make such changes in writing and mail them to the Recording Secretary. A copy must be mailed to all other parties in accordance with Rule 4 of these Rules of Procedure. Once a Trial Board Hearing has been scheduled, no changes may be submitted except with the consent of the President, or, if the President is disqualified from the Trial Board, the Vice-President. If both officers are disqualified, changes in the charges may be submitted only with the consent of the remaining members of the Trial Board.

Rule 7. Answer to Charges

The accused may, but is not required to, submit to the Recording Secretary a written answer to the charges any time after receiving a copy of the charges from the Recording Secretary, up to and through the time of the Trial Board Hearing.

The answer may set forth why the accused should be found not guilty of the charges by the Trial Board, including any defenses the accused may wish to assert. Failure to raise any claim, defense or issue in the answer shall not constitute a waiver of any kind.

Such an answer shall be served on the charging party in accordance with Rule 4 of these Rules of Procedure.

Rule 8. Charges Preferred Against Multiple Members

Charges preferred against more than one member or officer of the Local Union may be heard by the Trial Board at a single hearing if the charges arise from the same alleged conduct or scheme. An accused, however, may request in writing to the Recording Secretary, not less than seven days before his or her scheduled Trial Board Hearing, that the charges against him or her be heard separately from those against another accused. The Trial Board shall grant such a request for good cause shown.

Rule 9. Requests for Documents

Either the charging party or the accused may request documents from the Local Union. The Local Union shall honor such requests if (1) made not less than seven days prior to the scheduled date of the Trial Board Hearing; (2) the requests are not substantially burdensome on the Local Union; (3) the documents requested are narrowly relevant to the dispute at issue; and (4) honoring such requests would not compromise the goals, security, privileged relationships or other important interests of the Local and International Unions.

If the Local Union has concerns about the confidentiality of documents, the Local Union may make the documents available to the requesting party at the offices of the Local, but not permit the requesting party to retain or copy the documents.

If required to honor a request for documents pursuant to this Rule, the Local Union shall make such documents available not less than three days prior to the scheduled date of the Trial Board Hearing.

Rule 10. Establishment of a Trial Board

In accordance with Article XII, Section 3 of the Local Union Constitution, the members of the Executive Board shall constitute the Trial Board; except that neither the charging party, nor the accused, nor any member directly interested or involved in the charges may sit as a member of the Trial Board.

In such cases, the President of the Local Union shall appoint a substitute or substitutes from the members in good-standing reasonably soon after the need for such substitution(s) is apparent. If the President is to be disqualified, then the Vice-President shall appoint a substitute or substitutes; and if

he is also to be disqualified, then the substitute shall be appointed by the remaining Trial Board members.

The impartiality of the Trial Board is particularly at risk when relatives, close friends or close political allies of either the charging party or the accused, or members who are directly involved in the conduct at issue sit on the Trial Board. When deciding the composition of the Trial Board, great care must be used in selecting substitutes to ensure that the substitutes are selected in a neutral fashion and can be fair to both parties.

If a Trial Board is convened to hear charges that were previously heard by an earlier Trial Board, as in the case of a remand for a new hearing by the Appellate Officer, no members of the earlier Trial Board may serve on the new Trial Board.

Where the entire Executive Board of a Local Union appears to be disqualified, the matter may be referred to the General President, who shall be entitled to investigate to determine whether grounds for such disqualification exist. Upon a finding of grounds for disqualification, the General President shall have discretion to assume original jurisdiction over such charges, in which case he shall refer the matter to the Independent Hearing Officer, or, in his discretion, to the appropriate District Council for trial. Matters referred to the Independent Hearing Officer or the District Council by the General President are subject to appeal to the Appellate Officer. In the event the General President refers the Matter to the District Council, an appeal may be made to the Appellate Officer.

Rule 11. Decisions by Executive Board in Absence of Trial Board

Any decision to be made by the Trial Board pursuant to these Rules shall be made by the Executive Board if a Trial Board has yet to be established. No officer of the Executive Board may partake in any such decision if he or she is also the charging party, the accused, or has a direct interest in the matter to which the decision pertains.

Rule 12. Commencement of Trial Board Hearing

Both the charging party and the accused shall be ready and able to present all evidence they wish to present to the Trial Board, including the testimony of witnesses, upon the commencement of the Trial Board Hearing, unless the Recording Secretary or the Trial Board specifically indicates in writing to all parties not less than three days prior to the scheduled date of the Hearing that they will not be bound by such a requirement.

Rule 13. Attendance at Trial Board Hearings

The entire Trial Board Hearing may be attended by the Trial Board, the charging party, the accused, a licensed court reporter, and any attorney or other person authorized by the Trial Board to

represent a party pursuant to Rule 15 of these Rules of Procedure. In matters tried before a Local Union Trial Board or Executive Board, any member in good standing of that Local may attend the hearing. In matters tried before a District Council Trial Board, any member in good standing of any Local Union involved in the case may attend the hearing.

Rule 14. Failure of a Party to Attend Trial Board Hearing

Pursuant to Article XII, Section 4 of the Local Union Constitution, if the charging party fails to appear, the charges shall be dismissed. If the charging party ceases attending the Trial Board Hearing after it has commenced but before the hearing is completed, the charges shall be dismissed. If the accused fails to appear, the Trial Board shall proceed with the hearing and receive all the facts and evidence available.

Rule 15. Representation By One Other Than A Party

Either the charging party or the accused may be represented at the Trial Board Hearing by a fellow member in good-standing of the Local Union. The charging party or the accused may be represented by an attorney only in the discretion of the Trial Board.

Rule 16. Recording of the Trial Board Hearing

The Trial Board Hearing should be recorded by a licensed court reporter. The Trial Board's deliberations shall not be recorded. The Local Union shall pay for the court reporter's services.

Such recording by a licensed court reporter shall constitute compliance with the requirement of Article XII, Section 5 of the Local Union Constitution that the Trial Board record minutes of its meetings and proceedings. The transcript of the Hearing, together with any documents submitted, shall constitute the official record of the Trial Board.

The Local Union should generally not seek to satisfy this requirement by tape recording the proceedings.

Any Trial Board may obtain a waiver of the duty to transcribe its proceedings upon the prior written approval of the Appellate Officer.

Rule 17. Trial Board Hearing

In accordance with Article XII, Section 4 of the Local Union Constitution, the Trial Board Hearing shall be conducted in an orderly, fair, and impartial manner and should assure the full presentation of all the facts to the Trial Board.

The burden of proof shall be on the charging party. The charging party shall first present whatever evidence he or she possesses to substantiate the charges. The accused shall have the right to be present throughout the hearing and to cross-examine the charging party and any of the witnesses upon completion of his or her testimony.

After the evidence in support of the charges has been received, the accused shall present his or her defense. The charging party shall have the right to cross-examine the accused and any of the witnesses upon completion of his or her testimony.

The Trial Board should be chaired by the President, or the next highest official of the Local Union if the President has been disqualified. If no Local Union officials are serving on the Trial Board, the Trial Board should select a chairperson from among its members. The chairperson of the Trial Board should conduct the Hearing -- leading the parties through the proceedings and maintaining order.

Rule 18. Evidence

The charging party and the accused may offer such evidence as is relevant and material to the charges and necessary to an understanding and determination of the allegations.

The charging party and the accused may offer witnesses to testify during the Hearing. Neither the charging party, the accused, nor the Trial Board may compel a witness to testify. Exhibits, when offered by the parties, may be received in evidence by the Trial Board.

Either the charging party or the accused may offer signed statements from witnesses who cannot attend the Hearing, as well as any other hearsay. The Trial Board may consider such materials and enter them as evidence in the record if they are found reliable; except that if hearsay evidence is critical to proving the charges and little or no corroborative evidence is offered, the hearsay evidence shall be deemed inadmissible.

The Trial Board shall be the judge of the relevance and materiality of the evidence offered, and conformity to legal rules of evidence is not necessary. All evidence shall be taken in the presence of all members of the Trial Board and all of the parties, except where any of the parties is absent and has waived his or her right to be present.

Rule 19. Closing of Trial Board Hearing

The Trial Board shall specifically inquire of all parties present whether they have any further proofs to offer or witnesses to be heard. If satisfied that the record is complete, the Trial Board shall declare the Trial Board Hearing closed.

Rule 20. Reopening of Trial Board Hearing

The Trial Board Hearing may be reopened on the Trial Board's initiative, or upon application by the charging party or the accused, at any time before the Trial Board issues its Report. The decision whether to reopen a Trial Board Hearing is in the discretion of the Trial Board.

Rule 21. Dismissal of Charges

(a) Voluntary Dismissal

The charging party may withdraw the charges at any time prior to the Trial Board Hearing by letter to the Recording Secretary or by oral communication during the Trial Board Hearing. If a charging party voluntarily dismisses the charges, he or she may not subsequently prefer the same charges.

(b) Involuntary Dismissal

Except pursuant to Rule 14 of these Rules of Procedure, the Trial Board shall not dismiss the charges until all the evidence has been presented to it by all the parties, and the Trial Board Hearing has been otherwise completed.

Rule 22. Trial Board's Finding and Decisions

In accordance with Article X11, Section 5 of the Local Union Constitution, upon conclusion of the hearing, the Trial Board shall consider all of the evidence and argument submitted and proceed to make its findings and decision. It shall prepare a Report of said findings and decision, which shall set forth specifically the grounds for its findings and decision and which shall be signed by all the members of the Trial Board. The Recording Secretary shall forthwith mail a copy of said Report to the charging party and the accused at their last-known addresses .

Rule 23. Sanctions

If the Trial Board finds the accused guilty of any of the charges, it shall promptly determine appropriate sanctions, if any. Appropriate sanctions include, but are not limited to, a letter of reprimand to be published in the local newsletter, a fine, suspension from office, suspension from the Local or International Union, and expulsion. The Trial Board may also conclude that no sanction is appropriate, even if it finds against the accused.

Rule 24. Costs

The costs of any Trial Board Hearing, including the cost of the court reporter, shall generally be paid by the Local Union. The Trial Board may impose the costs on the charging party only on a unanimous finding that the charges were filed in bad faith, for the purpose of harassment, and were entirely frivolous and without any basis. The assessment of costs on the charging party is highly disfavored, and is expected to be quite rare.

Rule 25. Majority Decision

Unless specifically stated otherwise in these Rules of Procedure or the Constitutions, all decisions of the Trial Board must be by a majority.

Rule 26. Substantial Compliance

The Trial Board, within its discretion, may consider pleadings that are untimely or otherwise not in technical compliance with these Rules.

Rule 27. Submission of Trial Board's Report at Next Local Union Meeting

In accordance with Article X11, Section 6 of the Local Union Constitution, a copy of the Trial Board Report shall be submitted at the next regular meeting of the Local Union. The findings and

decision of the Trial Board shall be binding unless and until two-thirds of the members present and voting at said meeting reverse or modify the findings and decision of the Trial Board. The Recording Secretary shall forthwith mail a copy of said action to the charging party and the accused at their last-known addresses.

Rule 28. Appeal of Trial Board Decision

In accordance with Article XII, Section 7 of the Local Union Constitution, if either the charging party or the accused is aggrieved, he or she may, within thirty days from the date of the notice of said action, appeal therefrom to the General Executive Board by filing such appeal with the General Secretary-Treasurer at LIUNA Headquarters in writing. The appeal shall clearly and specifically set forth the grounds for support of said appeal and shall contain a copy of the findings and decision, and action.

All appeals received by the General Executive Board shall be promptly reviewed by the Inspector General for determination as to whether the appeal will be forwarded to the Appellate Officer. Such determination is at the Inspector General's discretion.

After notice of such appeal from the General Secretary-Treasurer or the Appellate Officer, the Local Union shall then submit promptly to the General Secretary-Treasurer or the Appellate Officer, whichever sent the notification, the following:

1. Copy of the charges
2. Copy of the notice for hearing
3. Record of the Trial Board Hearing
4. Copy of Report of the Trial Board
5. Copy of notification of the Trial Board's decision
6. Copy of minutes of regular meeting at which the Trial Board reported to the Local Union
7. Copy of notification of Local Union action

Rule 29. Effect of Appeal of Trial Board Decision

If an appeal is seasonably taken, it shall have the effect of staying the decision and sentence of the Trial Board, and no fine, suspension or expulsion shall be effective pending the outcome of the appeal, provided, however, that where any officer has been found guilty and suspended from office because of negligence, incompetence or dishonesty in the performance of his or her duties, the officer shall remain suspended from holding such office pending the decision of the Appellate Officer or the General Executive Board on his or her appeal.

Rule 30. Harmless Error

No error in either the admission or exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted to be done by the Trial Board or by any of the parties is grounds for granting a new Trial Board Hearing or for otherwise disturbing the Trial Board's Decision, unless refusal to take such action appears to the Trial Board to be inconsistent with substantial justice. The Trial Board at every stage of the proceedings may disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

W. Neil Eggleston
LIUNA Appellate Officer

AMENDMENT TO RULES OF AUGUST 22,1996:

Rule 13 was amended on August 22, 1996, to clarify that only members of a Local Union that is connected to the case may attend a Trial Board proceeding. Thus, in the case of a Trial Board conducted before a Local Union, only members of that Local may attend. In case of a Trial Board conducted before a District Council, only members of the Local Unions involved in the dispute may attend.

Rule 16 was amended on August 22, 1996, to clarify that a Trial Board may request from the Appellate Officer a waiver of the Rule's provision for transcription by a licensed court reporter. This amendment is intended to provide a limited exception for small Locals for which the cost of transcription would be prohibitively expensive. The Appellate Officer will not ordinarily grant a waiver except on a clear and convincing demonstration of hardship. A waiver of transcription, if granted, does not waive the Trial Board's constitutional obligation under Article XII, Section 5 to make some record of its proceedings.

These amendments are not intended to, nor should they be interpreted to, expand or restrict any substantial right of a party to a Trial Board proceeding.