

NYSCOPBA's Judicial/Ethics Panel
Policy and Procedures

Preamble:

The purpose of NYSCOPBA's Judicial/Ethics Panel Policy and Procedures is to resolve charges promptly, fairly and in the interest of the membership.

PARAGRAPH 1: FILING OF CHARGES

Except as provided in this article, any member of NYSCOPBA may file charges against any officer or member of NYSCOPBA for acts or omissions as hereinafter described in Paragraph 2; such charges must be filed within sixty (60) days of the date upon which an act or omission occurred or when the accusing member first knew or reasonably should have known the alleged act or omission.

PARAGRAPH 2: BASIS FOR FILING CHARGES

The following shall constitute basis for the filing of charges:

- A) violation of any provision of the Constitution and Bylaws of NYSCOPBA;
- B) misappropriation, embezzlement, or improper or illegal use of NYSCOPBA funds;
- C) dual unionism or sedition (activity which assists or is intended to assist competing employee organizations);
- D) instituting or urging others to institute legal action against NYSCOPBA or any officer, employee thereof without first exhausting all internal remedies within NYSCOPBA, provided that this 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 his or her internal remedies;
- E) using the name or assets (including mailing lists) or goodwill of NYSCOPBA in an unauthorized manner;
- F) deliberately interfering with any official of NYSCOPBA in the discharge of his or her lawful duties;
- G) conviction of a crime, the nature of which is such to bring NYSCOPBA as an organization into disrepute;
- H) knowingly submitting any false financial report or statement;
- I) acting in a manner such as to harm substantially the interests of NYSCOPBA;

- J) malicious prosecution or the bringing of charges which are frivolous in nature; and
- K) engaging in corrupt or unethical practices by taking or improperly retaining any money, books, records, or other property belonging to NYSCOPBA. The unauthorized destruction, alteration, or mutilation of records, vouchers, or receipts shall also constitute a violation of this code.
- L) While acting in one's official capacity, demonstrating a persistent pattern of treating other members with such a degree of disdain, disrespect and lack of professionalism as to undermine the promotion of the welfare of bargaining unit members.

PARAGRAPH 3: CONTENTS OF THE JUDICIAL/ETHICS COMPLAINT CHARGES

Charges shall be in writing on a form created by the Judicial/Ethics Committee and shall be signed by the member or members bringing the charge. The charges shall state specific section(s) of Paragraph 2 above alleged to have been violated, and specific facts underlying the charge.

In setting forth the specific facts underlying the charges, the charging person(s) shall state in detail the date each act or omission is alleged to have occurred, and any witnesses to the acts or omissions charged.

The charges shall be accompanied by any corroborative evidence, including, but not limited to:

- [1] physical evidence
- [2] documentary evidence (i.e., correspondence, business records);
- [3] hand-written and dated declarations(s) (the writing of which is witnessed by a second person) corroborating the allegation(s) made by the charging party, based on the personal knowledge of the person making the declaration and signed under penalty of perjury.

All document(s)/declaration(s) shall contain specific facts and be relevant to the charges as referenced in Paragraph 2, A-K above.

The written charge must contain the name, address, title and work location of the charging party as well as the name, address, title and work location (if known) of the accused.

Charges may only be initiated by NYSCOPBA officers or members in good standing. The written charges must be legible and specific.

PARAGRAPH 4: FILING AND SERVING CHARGES

The charges shall be filed in duplicate by being personally delivered to, or mailed by registered or certified mail to the Secretary of NYSCOPBA or, if the Secretary is a party or witness, to the President.

The Secretary (or President) shall refer the case immediately to the Chair of the Judicial/Ethics Committee. The date of filing shall be the date of the postmark or the day of hand delivery to the Secretary as evidenced by a signed receipt.

The Secretary shall serve the respondent with a copy of the charges either personally or by registered or certified mail, directed to the last known address of the respondent. The respondent shall have twenty (20) days after receipt in which to respond. The date of response shall be the date of postmark or hand receipt. Reasonable extensions to respond may be granted by the Chair of the Judicial/Ethics Committee. Copies of all correspondence, to include the response of the accused, shall be forwarded to the Judicial/Ethics Committee for review and resolution. A copy of the respondent's reply will be sent to the charging party.

PARAGRAPH 5: ETHICS COMMITTEE

A. Initial Screening of Charges

Pursuant to the Constitution and Bylaws, the Judicial/Ethics Committee shall be elected by the Executive Assembly. A quorum, consisting of at least five (5) Judicial/Ethics Committee members, shall be required to consider and render a decision on charges; all decisions shall be made by majority vote. The committee will make every effort to meet within sixty (60) days of receipt of the grievance to review each case. If it is not possible to meet in person, the Judicial/Ethics Committee may conduct a meeting by teleconference. Additionally, if by majority vote it is found necessary, the committee may conduct interview(s) and request additional information from the parties. The committee may:

1. dismiss or deny the charges if the committee finds no substantial evidence of a constitutional or ethics code violation; or
2. sustain the charges and issue an ethics/judicial opinion to the parties defining their responsibilities under the Constitution or these procedures if violations are found to be of a minor or technical nature; or

3. refer the matter for a full hearing before the Committee, if it finds substantial evidence of a serious violation of the Constitution or Paragraph 2 of these rules.

Internal committee rules of decorum include a provision that impacted individuals not be allowed to attend committee meetings unless the matter is referred for a full hearing. Members should be informed of the status of their case after submission, as well as be told reasons for sustaining or dismissing the case. The Chair will prepare a summary of the case to be presented to the Executive Board to simplify understanding of issues.

All correspondence relative to the case will be made available to the parties. Committee members will not accept phone calls from litigants except to discuss procedures. The Chair will recuse committee members should a conflict of interest or the appearance of conflict of interest surface.

Charges of dual unionism or sedition shall be referred to the Judicial/Ethics Committee for immediate review. If the Committee finds substantial evidence of dual unionism or sedition by any elected union officer or official, that officer or official may be immediately suspended from Office and all official duties pending the hearing provided by this procedure. The suspended official shall be given prompt notice of the suspension and may present evidence to the Committee, at its next meeting, to demonstrate that the suspension is not warranted. The Committee, upon consideration of such evidence may, in its discretion, continue or revoke the suspension.ⁱ

PARAGRAPH 6: REFERRAL FOR A FULL HEARING

Cases referred for a full hearing pursuant to paragraph 5 (3) shall be heard by a quorum of the Committee selected by the Chair, who may also serve as a member of the hearing panel.

The parties may appear before the hearing panel in person and with witnesses to present and answer the charges. A full and fair hearing will be conducted, with the accuser and the accused afforded the right to question witnesses and examine any evidence presented by the charging party. Witnesses need not testify under oath. The accused may select another NYSCOPBA member to represent him or her in the presentation of a defense, however, no counsel may present a case. The accused may elect to present a defense in writing rather than personally appear. In the absence of a written or personal defense, the hearing shall still proceed.

PARAGRAPH 7: JUDGMENT OF THE HEARING PANEL

Upon completion of the hearing, the Hearing Panel shall vote on whether to sustain the charges in whole or in part. A majority vote of the Hearing Panel shall be required to sustain the charges. The Hearing Panel shall render its decision within thirty (30) calendar days at the end of the hearing. The Hearing Panel's decision shall include a summary of the evidence presented

and shall state the basis upon which the decision was made. The Hearing Panel's decision shall be mailed to the accused, the charging party, and to such other persons as may be deemed appropriate. If the charges are not sustained, they shall be dismissed.

If the charges, or any portion thereof, are sustained, the Hearing Panel shall render judgment and may impose discipline. Discipline may include:

- A. requirement that the guilty party or parties conform to the Constitution and Bylaws and the Judicial Ethics Procedures;
- B. command to do or perform or restrain from specific acts;
- C. reprimand;
- D. deprivation of NYSCOPBA privileges;
- E. removal from Office; or
- F. suspension or expulsion from NYSCOPBA.

PARAGRAPH 8: APPEALS TO EXECUTIVE BOARD

1. Decisions of Judicial/Ethics Committee pursuant to paragraph 5 (1) or (2) and paragraph 6 may be appealed to the Executive Board by any party to the charge. All appeals will be filed with the Secretary (or President if the Secretary is a party) within thirty (30) days of the mailing or personal delivery of the decision. The decision shall be mailed by registered or certified mail to the last known address as shown on NYSCOPBA's books or may be personally delivered to the party or parties and this shall constitute due notice. Reasonable extensions to appeal may be granted by a majority vote of NYSCOPBA's Executive Board. ^{ii, iii}
2. The appeal must be received in duplicate by the Secretary (or President) of NYSCOPBA. The appeal shall contain a concise statement of the facts that the appellant feels warrants such an appeal.
3. The Executive Board, upon one-third (1/3) of those present and voting, shall hear the appeal at its next scheduled meeting, provided that the appellant postmarks the appeal within thirty (30) calendar days prior to the meeting.

4. In-person presentations to the Executive Board by the appellant or other parties to the grievance will require a majority of the vote of the Executive Board. Travel and other expenses to attend the appeal will not be provided by NYSCOPBA. There will be no requirement on the part of NYSCOPBA's Executive Board to schedule hearings or appeals for the convenience of any of the litigants.
5. A majority vote is required to overturn any decision of the Judicial/Ethics Committee.
6. Board members party to the grievance will not be allowed to vote.
7. A decision by the Executive Board will be considered final unless the Executive Board votes to remand to the Ethics Committee for a full hearing under paragraph 6.

PARAGRAPH 9: FAILURE TO COMPLY

Failure by an elected officer to comply with the final judgment imposing discipline shall be considered an action detrimental to NYSCOPBA's interest and may lead to impeachment.

Failure by a member to comply with the decision of the Executive Board will be grounds for the Board to take further disciplinary action.

Judgment of the Judicial/Ethics Committee is final unless an aggrieved party appeals the decision to the Executive Board.

ⁱ Paragraph 5 amended to include last paragraph (dual unionism and sedition) Approved September 1, 2000

ⁱⁱ Paragraph 8 (1) amended ~~within sixty (60) days of the receipt of a decision.~~ Approved February 11, 2009

ⁱⁱⁱ Paragraph 8 (1) amended to include ...within thirty (30) days of the mailing "or personal delivery of the decision. The decision shall be mailed by registered or certified mail to the last known address as shown on NYSCOPBA's books or may be personally delivered to the party or parties and this shall constitute due notice. Reasonable extensions to appeal may be granted by a majority vote of NYSCOPBA's Executive Board."



New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209
(518) 427-1551 www.nyscopba.org nyscopba@nyscopba.org



Charging Party:

Print Name _____

Signature _____

Charging Party MUST sign form

Date _____

Address _____

Phone Number _____

Title _____

Work Location _____

Accused Party

Corroborating Witness Signature _____

Witness must attach a declaration or statement of facts.

BASIS FOR FILING CHARGE:

LIST SPECIFIC LETTER(S) (A-L) PARAGRAPH 2 OF THE JUDICIAL & ETHICS POLICY AND PROCEDURE: _____

SPECIFIC FACTS RELEVANT TO THE CHARGE(S):

Except as provided in this article, any member of NYSCOPBA may file charges against any officer or member of NYSCOPBA for acts and or omissions as described in paragraph 2. Such charges **MUST BE FILED IN DUPLICATE WITHIN 60 DAYS** of the date upon which an act or omission occurred or when the accusing members first knew or reasonably should have known of the alleged act or omission. Any corroborative evidence per paragraph 3 shall accompany charges. (Please Print of Type).

Status of File: (For Committee Use Only)

Paragraph 4: Filing and Serving Charges. Charges shall be filed in duplicate by being personally delivered to, or mailed by Registered or Certified mail to the Secretary of NYSCOPBA. If the Secretary is a party or witness, the charges shall be filed to the President. The respondent shall have 20 days after receipt in which to respond. (Please Print or Type).

RESPONSE OF ACCUSED PARTY:

Accused Signature: _____ DATE: _____

DECISION OF NYSCOPBA’S JUDICIAL & ETHICS COMMITTEE FILE# _____

Please be advised that the New York State Correctional Officers and Police Benevolent Association, Inc. Judicial & Ethics Committee reviewed your accusation, and after careful consideration of the facts has found:

1. _____
 2. _____
 3. _____
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The purpose of the Judicial & Ethics Committee is to substantiate only those findings that a member violated paragraph 2. If you do not agree with the Committee’s findings, you have the right to appeal the determination to the Executive Board. All appeals must be filed with the Secretary (or President, if the Secretary is a party), within 30 days of receipt of the decision (see paragraph 8).

Tammy Sawchuk, Chair
Judicial & Ethics Committee

DATE _____