

**ASEA/AFSCME
Local 52
RULES OF
PROCEDURE
OF THE
JUDICIAL PANEL**

(APPROVED FEBRUARY 12, 2001)

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1 **PREAMBLE**

2 These *Rules of Procedure* are adopted for the purpose of carrying out the functions and
3 responsibilities of the ASEA/AFSCME Local 52 Judicial Panel, a body established by the
4 ASEA/AFSCME Local 52 Constitution for the purpose of resolving internal union disputes.

5
6 In adopting these *Rules*, the Judicial Panel recognizes that it is not a court of law. The Judicial
7 Panel is a part of ASEA/AFSCME Local 52 which, by definition, is a trade union. The members
8 of the Judicial Panel, like their brothers and sisters in ASEA/AFSCME Local 52, are first and
9 foremost trade unionists. The members of the Judicial Panel are united in their belief that
10 disputes between ASEA/AFSCME Local 52 members involving ASEA/AFSCME Local 52’s
11 Constitution can, and should be, resolved within the Union, in a manner consistent with trade
12 union principles and without resort to courts and lawyers.

13
14 ASEA/AFSCME Local 52’s procedures for the resolution of internal union disputes are designed
15 to allow rank-and-file union members to represent themselves without having to incur the cost of
16 outside counsel.

17 **ARTICLE I**

18 ***DEFINITIONS***

19 Unless the context clearly indicates otherwise, the following terms when used in these *Rules*
20 shall have the meanings set forth below:

21
22 Section 1. “International Union” shall mean the American Federation of State, County and
23 Municipal Employees.

24
25 Section 2. “International Constitution” shall mean the Constitution of the American Federation
26 of State County and Municipal Employees.

27
28 Section 3. “ASEA/AFSCME Local 52” shall mean the Alaska State Employees
29 Association/AFSCME Local 52, AFL-CIO.

30
31 Section 4. “Judicial Panel” or “Panel” shall mean the body established and described in
32 Article 11 of the ASEA/AFSCME Local 52 Constitution.

33
34 Section 5. “Panel Member” or “member of the Panel” shall mean any elected or appointed
35 member of the Judicial Panel, including its Chairperson.

36
37 Section 6. “Trial Body” shall mean the Trial Body of ASEA/AFSCME Local 52, as described in
38 the International Constitution or in the approved constitution of ASEA/AFSCME Local 52.

39
40 Section 7. “Trial Officer” shall mean a member of the Judicial Panel appointed by the Judicial
41 Panel Chairperson under the provision of Article 11 of the ASEA/AFSCME Local 52
42 Constitution.

1
2 Section 8. "Chairperson of a Trial Body" shall mean a Trial Officer elected by the Trial Body.
3

4 **ARTICLE II**

5 **MEMBERSHIP AND ORGANIZATION**

6 Section 1. The Judicial Panel consists of eight elected members of ASEA/AFSCME Local 52,
7 one of whom is designated as Chairperson in accordance with the ASEA/AFSCME Local 52
8 Constitution. The Judicial Panel Chairperson performs the duties set forth in the
9 ASEA/AFSCME Local 52 Constitution.
10

11 Section 2. The terms of election of members of the Judicial Panel shall be as established in
12 Article 11 of the ASEA/AFSCME Local 52 Constitution.
13

14 Section 3. In all matters requiring action by the Judicial Panel as a whole, a majority of its total
15 seated membership shall constitute a quorum for conducting business.
16

17 Section 4. In addition to copies of charges being filed in accordance with Article X of the
18 International Constitution, all communications to the Judicial Panel shall be directed to the
19 ASEA/AFSCME Local 52 Administrative Assistant and sent to Union Headquarters; except that
20 any member of the Judicial Panel who has been assigned to serve as a Trial Officer, or as
21 Chairperson of a Trial Body, may direct that matters connected with the case be sent directly to
22 such member.
23

24 Section 5. Meetings of the full Judicial Panel shall be held on the call of the Judicial Panel
25 Chairperson or on the call of a majority of the Panel Members.

26 **ARTICLE III**

27 **GENERAL PROVISIONS**

28 Section 1. A charge must be submitted in accordance with Article X of the International
29 Constitution.
30

31 Section 2. A charge must be submitted in writing. A charge must be specific and must state the
32 names and addresses of each person bringing the charge. The person bringing the charge must
33 be a member in good standing of the Union. The charge must name an individual person or
34 persons who are members, officers or staff of ASEA/AFSCME Local 52. The charge must cite
35 which alleged offense under Article X, Section 2, of the International Constitution the person or
36 persons are being charged with. The charge must cite the specific date and location of the
37 alleged offense. The charge must cite the relevant facts. The charge must be signed and dated
38 by the person or persons bringing the charge.
39

1 Section 3. Charges shall be submitted by registered mail, return receipt, as described in Article
2 II, Section 4, of these *Rules*.

3
4 Section 4. Copies of submitted charges are forwarded by registered mail, return receipt, by the
5 ASEA/AFSCME Local 52 Administrative Assistant to the alleged accused party or parties and
6 by mail to the Judicial Panel.

7
8 Section 5. As soon as practicable after their receipt of a mailed copy of the charge, the Judicial
9 Panel shall meet in person or by teleconference in accordance with Article 11.02.D.2 of the
10 ASEA/AFSCME Local 52 Constitution to determine if a complete and proper charge has been
11 filed.

12
13 Section 6. If the Judicial Panel finds that the charge does not meet constitutional standards of
14 specificity and/or due process it will respond in writing, as soon as practicable, back to the
15 charging party advising, without prejudice, of such finding.

16
17 Section 7. If the Judicial Panel finds that the charge does meet constitutional standards of
18 specificity and due process, the charge will be considered as filed.

19
20 Section 8. The Judicial Panel Chairperson, in consultation with the Judicial Panel, will then
21 select a Trial Body with consideration as described in Article 11.02.D.3 of the ASEA/AFSCME
22 Local 52 Constitution. The Judicial Panel Chairperson will set a trial venue and a trial date in
23 accordance with the timeframes outlined in Article X, Sections 12, 13, and 21 of the
24 International Constitution. The Judicial Panel Chairperson will also take into consideration any
25 undue hardship to both parties and the expense to the Union. The Judicial Panel Chairperson
26 will ensure that notice of the trial venue and the filed charge is sent by registered mail, return
27 receipt, to both the charging and accused parties, and that the Trial Body is copied.

28
29 Section 9. A request for a change in trial date and/or venue shall only be considered once by the
30 Trial Body with due consideration to Article X, Sections 12, 13, and 21 of the International
31 Constitution. A subsequent request for change of date and/or venue will only be considered by
32 the body in the event of extraordinary circumstances or hardship.

33
34 Section 10. Any member or members of the Judicial Panel may voluntarily disqualify
35 themselves from participation in any particular case by written notification to the Judicial Panel
36 Chairperson, and such written notification need not state the reason for such voluntary
37 disqualification.

38
39 Section 11. No Panel Member who has disqualified themselves shall discuss such case with any
40 other member of the Panel unless it be as a witness under oath.

41
42 Section 12. No trial in which a member of the Judicial Panel is either the person bringing the
43 charge or the accused person shall be considered or heard by the Judicial Panel or its members.
44 In the event such a case is filed with or appealed to the Judicial Panel, the Judicial Panel

1 Chairperson shall refer the case to the International Judicial Panel and shall notify both the
2 person bringing the charge and the accused person that this has been done.

3
4 Section 13. With due recognition for Panel Members' availability, travel distances, and other
5 relevant factors, the Judicial Panel Chairperson shall be responsible for fairly distributing among
6 the members of the Panel cases and other matters reaching the Judicial Panel.

7
8 Section 14. The original decision in every case coming before the Judicial Panel shall be filed
9 with the Judicial Panel Chairperson who shall be responsible for maintaining the current files of
10 the Judicial Panel. The Judicial Panel Chairperson shall be responsible for reproducing the
11 decisions and for distribution of decisions to the Judicial Panel, the President, and the Business
12 Manager.

13 **ARTICLE IV**

14 ***TRIALS: GENERAL PROCEDURES***

15 Section 1. It shall be the duty of the Trial Officer to conduct hearings in an impartial and orderly
16 manner. The Trial Officer shall have the authority, subject to other provisions of these *Rules* and
17 the ASEA/AFSCME Local 52 Constitution:

- 18
19 A. To administer oaths and affirmations;
20 B. To issue administrative requests to appear to any witness;
21 C. To rule on all procedural matters, objections and motions;
22 D. To rule on all offers of proof and to receive relevant evidence;
23 E. To interrogate witnesses called by the parties in an impartial manner to develop
24 any facts deemed necessary to fairly and adequately decide the matter under consideration; and,
25 F. To secure and present in an impartial manner such evidence, in addition to that
26 presented by the parties, as the Trial Officer deems necessary to fairly and equitably decide the
27 matter under consideration.

28
29 The technical rules of evidence shall not apply to the proceedings of the Judicial Panel. The
30 Trial Officer shall have complete discretion concerning the admissibility of evidence.

31
32 Section 2. These *Rules* shall be liberally construed and the Judicial Panel may, in its discretion,
33 modify, waive, or supplant any of these *Rules* in any particular case, but only to the extent
34 necessary to accomplish the purposes for which the Judicial Panel was established.

35
36 Section 3. In any case involving a novel or original interpretation of the International or
37 ASEA/AFSCME Local 52 Constitutions, the responsible member or members of the Judicial
38 Panel shall inform the Chairperson immediately and the Chairperson shall refer the question to
39 the ASEA/AFSCME Local 52 State Executive Board for determination.

40
41 Section 4. In computing any period of time prescribed or allowed by these *Rules*, the date of
42 receipt of any document shall not be included. The last day of the period so computed shall be

1 included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until
2 the end of the next day which is not a Saturday, Sunday or a legal holiday.

3
4 Section 5. During the pendency of the case, it shall be the responsibility of each party to inform
5 the Judicial Panel Chairperson and the Trial Officers hearing the case immediately in writing, in
6 accordance with Article II, Section 4 of these *Rules*, of any change or error in such party's
7 address.

8
9 Section 6. Copies of the decisions in any trial conducted by the Trial Body shall be served by
10 registered or certified mail, return receipt requested, to the accuser and the accuser's counsel of
11 record, and to the accused and the accused's counsel of record. In addition, copies shall be
12 distributed to each member of the Judicial Panel, the President and the Business Manager of
13 ASEA/AFSCME Local 52.

14
15 Section 7. The accused person in any trial shall have the right to choose either an open or closed
16 hearing, in accordance with the provisions of Article X, Section 12, Sub-section M, of the
17 International Constitution. Should the accused choose an open hearing, the Trial Officer shall
18 nonetheless bar from the hearing room (1) all persons who are not members of the Union except
19 any person acting as counsel to the accused person or the person bringing the charge and (2) any
20 person who is to testify as a witness in the trial. The Trial Officer shall, at all times, have the
21 authority to order the removal and the subsequent barring from the hearing room of any person
22 who causes or participates in any disruption of the proceedings or who refuses to maintain
23 proper decorum.

24 Should the accused person choose a closed hearing, only the Trial Officers, the accused
25 person and the accused person's counsel of record, and the accuser and the accuser's counsel of
26 record shall be permitted continuous presence in the hearing room. Any witness called by either
27 party or by the Trial Officers shall be present in the room only while giving testimony.

28
29 Section 8. The person bringing the charge shall present the evidence in support of such charge.
30 Following such presentation, the accused person shall be afforded the opportunity to present a
31 defense. The rights of the accused person set forth in Article X, Section 12, of the International
32 Constitution and the rights of the person bringing the charge set forth in Article X, Section 13, of
33 the International Constitution shall be observed at all times.

34 35 **ARTICLE V**

36 ***TRIALS: SUBORDINATE TRIAL BODY DECISION APPEAL***

37 Section 1. An appeal of the decision of a subordinate trial body, as defined in the *Policies and*
38 *Procedures* of ASEA/AFSCME Local 52 or the ASEA/AFSCME Local 52 Constitution, shall be
39 filed with the Judicial Panel within thirty (30) days following receipt of the decision. The appeal
40 shall be in writing and shall be accompanied by a copy of the original charge and of the decision
41 that is being appealed. The appeal shall set forth in substance the appellant's reasons for
42 believing the subordinate trial body was in error and the nature of the error.

1 Section 2. Upon receipt of the appeal, the Judicial Panel shall make an initial determination as to
2 whether or not the matter is to be filed. Should the Panel find that the appeal has not been
3 submitted in a timely fashion, such appeal shall be summarily rejected; provided, however, that
4 if the Panel finds that there were compelling or mitigating circumstances which caused the delay,
5 the Panel may hold that the appeal is properly filed before the Panel.

6
7 Section 3. Should the Panel find that the original charge which is part of the appeal is not
8 sufficiently specific and detailed, the Judicial Panel Chairperson shall notify both the accused
9 and the accuser of such finding and shall allow the accuser an additional period, not to exceed
10 fifteen (15) days in which to make the charge more specific. If, at the end of such additional
11 period, there is not pending a charge which meets the standards of specificity set forth in Article
12 X, Section 6, of the International Constitution, the Panel may dismiss the charge and set aside
13 any decision or penalty that may have been set by any subordinate trial body.

14
15 Section 4. Upon finding that the appeal is properly before the Panel, the Judicial Panel
16 Chairperson shall appoint a Trial Officer in the manner provided in Article IV, Section 1, of
17 these *Rules*.

18
19 Section 5. The Trial Officer shall establish the date, time, and place for the hearing in
20 accordance with Article X, Sections 12, 13, and 21 of the International Constitution, and shall
21 notify the parties at least fifteen (15) days in advance of such hearing.

22
23 Section 6. The trial shall be conducted in accordance with the provisions of the International
24 Constitution, of the ASEA/AFSCME Local 52 Constitution, and of Article IV of these *Rules*.

25
26 Section 7. Where the Trial Officer hearing the case desires to consider all or any portion of any
27 written record made before a subordinate trial body, the Trial Officer shall so inform the accused
28 person and the person bringing the charge and shall enter the matter into the record.

29
30 Section 8. The Trial Officer may grant the parties the right to file briefs subject to such time
31 limitations as the Trial Officer considers reasonable under the circumstances.

32
33 Section 9. The decision shall be in writing and shall conform to the timeframes of Article X and
34 the provisions of Article XI, Section 12, of the International Constitution.

35 **ARTICLE VI**

36 ***ELECTION PROTESTS***

37 Section 1. The AFSCME International Judicial Panel shall have original jurisdiction over all
38 subordinate body election protests and challenges in accordance with the *Elections Code*,
39 Appendix D, of the International Constitution, and the *Rules of the AFSCME International*
40 *Judicial Panel*.

1 **ARTICLE VII**

2 **MISCELLANEOUS**

3 Section 1. The language of these *Rules* shall be liberally construed and shall be interpreted in a
4 manner designed to fully protect the fundamental rights of members.

5
6 Section 2. These *Rules* are subject to and subordinate to the Constitutions of ASEA/AFSCME
7 Local 52 and the American Federation of State, County and Municipal Employees. It is the
8 intent of the Judicial Panel that these *Rules* shall conform to the provisions of the Constitutions
9 of ASEA/AFSCME Local 52 and AFSCME International. Should a conflict between these
10 *Rules* and the ASEA/AFSCME Local 52 Constitution or the International Constitution be found,
11 the provisions of the ASEA/AFSCME Local 52 Constitution and/or the International
12 Constitution shall prevail.

13
14 /end
15
16
17