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Introduction

The words "Justice," "Honor," "Strength" embody the core values that have made the Laborers' International Union of North America the most progressive and innovative Union in North America. With those values in mind, the General Executive Board has developed this Code to embody the best practices that have made us the strong, proud and democratic organization we are. The purposes of this Code are to help ensure that the best interests of our members are protected and remain our first priority, to protect our members against improper influences whether from within or outside the Union, to preserve and protect our Union's good name and reputation and to recognize and promote the highest standards of ethical conduct throughout our Union pursuant to a single, unified Code to apply consistently throughout the United States and Canada. While recognizing that there are differences in the legal systems of both countries, our goal is to create consistent standards of responsibility among all our members, officers, representatives and employees.

CODE OF BEST PRACTICES FOR LIUNA OFFICERS, REPRESENTATIVES, MEMBERS AND EMPLOYEES

The following Code of Best Practices shall apply to the International Union, all District Councils, every Local Union, and to every employee, member and officer thereof.

Financial Best Practices

To provide advice, guidance and assistance with regard to financial matters, the International Union maintains a comprehensive audit compliance program, which is overseen and supervised by the General Secretary-Treasurer. In addition to providing a staff of experienced auditors, the program includes regular educational presentations, written materials or manuals and advice on as-needed or requested basis. The following standards are among the financial best practices included in the audit program:

1. Union funds and assets are held in trust for the benefit of the membership. The membership is entitled to assurance that Union funds are not dissipated and are spent for proper purposes. The membership is also entitled to be reasonably informed as to how Union funds are invested or used.

2. All LIUNA officers and representatives occupy positions of trust and have a fiduciary duty to honestly and faithfully serve the best interests of the membership. Accordingly, the Union and its representatives shall conduct their proprietary functions, including all contracts, agreements or arrangements for purchase or sale of goods or services in accordance with the practice of well-run institutions, including the securing of competitive bids for major contracts where appropriate.

3. Union officials and representatives shall ensure that Union assets and resources are expended only for proper purposes and never for personal gain or advantage. In particular, the Union shall avoid the investment or use of its funds in a manner which results in the personal profit or advantage of any officer or representative of the Union. Likewise, the Union shall avoid contracts for purchase or sale or for rendering services that result in the personal profit or advantage of any officer or representative of the Union, nor shall any officer, representative or employee of the International Union, District Council, or any Local Union accept personal profit or special advantage from any action of any officer or representative of the Union.

Business and Financial Activities of Union Officials

Any person who represents LIUNA and its members, whether elected or appointed, has a special trust to serve the best interests of the members and their families. Therefore, every officer and representative must avoid any outside transaction which creates an actual or apparent conflict of interest and shall take appropriate measures to disclose the same. The special fiduciary nature of Union office requires the highest loyalty to the duties of the office. In particular:

1. The mailing lists of the Union are valuable assets. In order to protect the interests of our membership, Union officers and representatives shall not, under any circumstances, without the express prior written consent of the General President, turn over a Union mailing list to an outsider for use in the promotion or sale of any goods or services that benefit an individual or private concern. Mailing lists are to be used only to promote the necessary legitimate functions of the Union and for no other purpose. It is improper for any official or representative of the Union, without the express prior written consent of the General President, to permit the use of any mailing list by any third party to promote the sale of any goods or services, or to enable professionals to solicit the membership.

2. No officer or representative of the Union shall have a personal financial interest which conflicts with his/her Union duties.

3. Except for stock purchase plans, profit sharing or retirement plans, no officer or representative of the Union shall have any substantial interest in a business with which LIUNA

bargains collectively.

4. No officer or representative shall accept "kickbacks", under-the-table payments, valuable gifts, lavish entertainment or any personal payment of any kind, other than regular pay and benefits for work performed as an employee, from an employer with which the Union bargains collectively or from a business or professional enterprise with which the Union does business.

5. The principles of this Code apply to investments and activities of third parties where they amount to a subterfuge to conceal the financial interests of such officials or representatives.

Barred Conduct

No Union officer, representative, member or employee, and no union trustee of any benefit fund, shall engage in "barred conduct."

"Barred conduct" is defined as: a) any conduct that would constitute an act of racketeering, as such conduct is described in Title 18 of the United States Code, Section 1961(1) [set forth in Appendix A], that involves the participation of any member or associate of organized crime when such act of racketeering relates directly or indirectly to the affairs of the union; b) knowingly associating with any member or associate of organized crime; c) knowingly permitting any member or associate of organized crime to exercise control or influence in the conduct of the affairs of the Union; or d) obstructing or interfering with the Inspector General, the Special Counsel, the Independent Hearing Officer, the Appellate Officer or the Elections Officer, as those parties are described in the LIUNA Code of Best Practices. The term "knowingly associate" shall mean that 1) an individual knew that the person with whom he or she was associating was a member or associate of organized crime; 2) the association related directly or indirectly to the affairs of the Union; and 3) the association is more than fleeting or casual. The definition of "knowingly associate" in this Code also provides for, and incorporates by reference, certain additional exceptions set forth in Appendix B to this Code of Best Practices.

Special Procedures Applicable to Barred Conduct Cases or Cases Assigned by the General President - Independent Officers

1. Positions

The General Executive Board hereby recognizes the following positions: the Special Counsel, the LIUNA Inspector General, the Independent Hearing Officer(s) and the Appellate Officer. These officers shall have a duty to account to the Union for their activities and expenditures. Upon appointment by the General Executive Board, these officials shall serve for a three (3) year term except that such officials may be removed from office by the General Executive Board for breach of the above duty, for conduct detrimental to the best interests of the labor movement or otherwise for cause which is not arbitrary, capricious or in bad faith. Further, the General Executive Board shall have the right at any time to eliminate, abolish, reorganize or restructure these positions for reasons of economy, efficiency or other good cause.

LIUNA shall purchase a policy of insurance and/or bonds, in an appropriate amount, to protect each person holding one of these positions, and any persons hired by or acting on his behalf, from personal liability for any of the actions under this Procedure. If such insurance is not available, or if the General Executive Board so elects, LIUNA shall indemnify these persons, and any persons hired by or acting on their behalf, from personal liability (and costs incurred to defend against any claim of liability) for any of their actions under this Code.

A. The Special Counsel

LIUNA shall engage the services of an outside attorney, highly regarded for his or her competence, integrity and experience. The Special Counsel and his/her representatives shall be persons who have demonstrated an understanding and respect for the labor movement and for the causes of working families.

For the purpose of fulfilling the mandate of the GEB and General President, all of the investigative and disciplinary powers described in the LIUNA Constitution, the Uniform Local Union Constitution, and the Uniform District Council Constitution (hereinafter the three constitutions are referred to together as "the Constitution") are delegated to the Special Counsel in cases involving charges or allegations of barred conduct and may otherwise be delegated by the General President in his discretion to the Special Counsel or Inspector General.

The Special Counsel shall have the authority and duty to investigate and prosecute disciplinary charges against any officer, agent, representative, employee, or member of the Union for engaging in barred conduct or upon assignment from the General President, for violating the Constitution, the Code of Best Practices, or any other rule, policy, regulation, practice, or procedure adopted by the General Executive Board.

In exercising his jurisdiction with regard to barred conduct or upon assignment from the General President, the Special Counsel shall be sensitive to the potential harm to a person resulting from unresolved allegations during union political campaigns. Further, to avoid the possibility of interference with other investigations and to avoid a duplication of efforts and waste of resources, the Special Counsel shall attempt to coordinate efforts with law enforcement agencies or other governmental authorities regarding allegations of criminal conduct or other violations of federal or state laws as they come to the attention of the Special Counsel and which, upon review and investigation, appear credible. Where possible, the Special Counsel shall rely upon the government to prosecute the most serious cases.

Upon assignment by the General President, the Special Counsel may be authorized to impose trusteeships or supervisions over any district council, local union or other entity within the Union for violating the Constitution, the Code of Best Practices, or any other rule, policy, regulation, practice, or procedure adopted by the General Executive Board.

The Independent Hearing Officer(s) shall hear: a) disciplinary complaints for barred conduct; or b) disciplinary, trusteeship or supervision complaints that the General President has assigned to the Special Counsel. The Independent Hearing Officer shall proceed as expeditiously as the circumstances of the case permit.

In prosecutions for barred conduct or upon assignment from the General President, for violations of the Constitution, the Code of Best Practices, or any other rule, policy, regulation, practice, or procedure adopted by the General Executive Board, the Special Counsel may recommend discipline, including, but not limited to, suspension, removal from Union office, permanent expulsion from the Union, and fine. In trusteeship or supervision proceedings, the Special Counsel may recommend the imposition of a trusteeship or supervision over a district council, local union, or other entity of the Union, or the revocation of the charter of a district council, local union, or other entity of the Union.

Barred conduct investigations shall be initiated and completed and any resulting charges shall be filed within six (6) months of the time the Special Counsel knew or reasonably should have known of the

relevant facts and circumstances giving rise to the charge(s), except that the General President may extend the time for good cause; disciplinary charges once filed shall be determined as expeditiously as the circumstances of the case permit.

As determined by the General Executive Board and taking into account its other priorities and resources, LIUNA will provide the Special Counsel with reasonable funding to fulfill his mandate. The Special Counsel shall have complete access to, and the right to make copies of, all books, records, accounts, correspondence, files, and other documents of any individual or entity, subject to any right to apply to the Independent Hearing Officer for a protective order.

The Special Counsel shall have the right to require and take the sworn statement, or sworn oral deposition, of any officer, agent, representative, employee, or member of the Union. Any person subject to such a deposition or required to provide a sworn statement or participate in any interview or interrogation shall have the right to have legal counsel present and participate during the interview, interrogation or deposition. If any person on the basis of the privilege against self-incrimination refuses to testify or to provide evidence before the Special Counsel, the Inspector General or the Independent Hearing Officer and it is determined after investigation and proved by a preponderance of the independent evidence that the 5th Amendment privilege was invoked as a shield to avoid discovery of corruption or barred conduct on his/her part, then such individual may be subject to discipline for that reason alone. This provision shall be interpreted and applied consistently with the similar provisions contained in the AFL-CIO's Code of Ethical Practices. This provision, including the privilege against self-incrimination, shall be interpreted and applied consistently to investigations and hearings in Canada.

Further, in disciplinary proceedings before the Independent Hearing Officer based upon an allegation of barred conduct or upon assignment from the General President, for violating the Constitution, the Code of Best Practices, or any other rule, policy, regulation, practice, or procedure adopted by the General Executive Board, the Independent Hearing Officer may draw an adverse inference from a witness' invocation of the privilege against self-incrimination provided that credible independent evidence exists that supports the facts or allegations as to which the witness refuses to answer. Accordingly, if no credible evidence is put forward to support the facts or allegations as to which the witness refuses to answer, no adverse inference shall be permitted. Except as provided herein, the right to invoke privilege against self-incrimination shall not be impaired or abridged.

Should the Special Counsel or the Inspector General demand or require that any person subject to the Code of Best Practices produce any document, record or writing, that person may apply to the Independent Hearing Officer for a protective order on the ground that the material sought is not reasonably calculated to lead to the discovery of admissible evidence, or is privileged material, or will cause the person annoyance, embarrassment, oppression or undue burden or expense as these terms are used in Fed.R. Civ.P 26 (b)(5)(c). These terms, as used in Fed.R. Civ.P 26 (b)(5)(c), shall be interpreted and applied consistently to investigations and hearings in Canada.

B. The LIUNA Inspector General

LIUNA shall retain an individual, highly regarded for his or her integrity, competence and experience, to serve as Inspector General. The Inspector General and his/her representatives shall be persons with a demonstrated understanding of and respect for the labor movement and the causes of working families.

The Inspector General will work cooperatively with the Special Counsel to investigate complaints of barred conduct or such other matters as may be delegated by the General President or General

Executive Board. As to any matter within the jurisdiction of the LIUNA Inspector General, the Inspector General may refer such matter to the General President.

As may be directed and assigned from time to time by the General President, the Inspector General also may supervise the implementation and operation of other lawfully adopted procedures and policies of this International Union and shall report to the General President his activities and recommendations in that regard.

As determined by the General Executive Board and taking into account its other priorities and resources, LIUNA will provide the Inspector General with reasonable staff, funding, and office space, to fulfill his/her mandate. The Inspector General shall have complete access to, and the right to make copies of, all books, records, accounts, correspondence, files, and other documents of any individual or entity that pertain to any matter under investigation, subject to any right to apply to the Independent Hearing Officer for a protective order.

The Inspector General shall have the right under the same conditions as are applicable to the Special Counsel to take and require the sworn statement, or sworn oral deposition, of any officer, agent, representative, employee, or member of the Union. Persons required to provide a sworn statement or to participate in any interview or interrogation shall have the right to have counsel present and participate in the deposition, interview or interrogation and to invoke the privilege against self-incrimination as provided above.

C. The Independent Hearing and Appellate Officers

Persons of high integrity, competence and experience shall serve as the Independent Hearing Officer(s) and the Appellate Officer. These officers and their representatives shall be persons with demonstrated understanding of and respect for the labor movement and the causes of working families.

The Independent Hearing Officer(s) shall preside over and provide rulings in a) all cases of barred conduct brought by the Special Counsel, pursuant to this Code; and b) such disciplinary cases, trusteeships, supervisions, trial boards or other matters as may be assigned by the General President or by the Special Counsel after referral by the General President; otherwise, supervision or trusteeship matters may be assigned by the General President for hearing to a Special Hearings Panel pursuant to Article VIII, Section 2(a-vii) of the International Union Constitution. In the event that the General Executive Board appoints more than one (1) Independent Hearing Officer, then cases shall be assigned by the General President.

The Appellate Officer shall hear all appeals in all disciplinary matters brought by the Special Counsel before the Independent Hearing Officer. Such appeals shall be decided under appropriate appellate standards of review.

2. Special Hearing Rules of Procedures for Barred Conduct Cases and Cases Assigned to the Special Counsel from the General President

The following procedures shall apply at any hearing brought before the Independent Hearing Officer by the Special Counsel on disciplinary charges of barred conduct or, upon assignment from the General President, of violations of the Constitution, the Code of Best Practices, or any other rule, policy, regulation, practice, or procedure adopted by the General Executive Board:

- a. Hearings shall be initiated by the filing of a written specific charge, which shall be served

upon the charged party.

- b. The charged party shall have at least thirty days, prior to the hearing, to prepare a defense.
- c. The party charged may be represented by counsel throughout the proceeding.
- d. A fair and impartial hearing shall be conducted before an Independent Hearing Officer.
- e. The hearing shall be conducted under the rules and procedures generally applicable in labor arbitration proceedings. Decisions shall be made based on a "just cause" standard. Individuals shall have the right to invoke their privilege against self-incrimination subject to the provisions stated above.
- f. The Independent Hearing Officer may require any officer, agent, representative, member, or employee of, or entity within the Union to produce any book, paper, document, record or other tangible object, for use in any hearing. Subject to the provisions of paragraph 2(e), above, any failure to comply with the request of the Independent Hearing Officer may be considered by the Independent Hearing Officer in assessing whether such individual or entity should be subject to the imposition of discipline.
- g. All testimony and other evidence shall be received by the Independent Hearing Officer under oath.
- h. Any discipline imposed by the Independent Hearing Officer, or other final decision of the Independent Hearing Officer in disciplinary cases, shall be subject to appeal by the party disciplined to the Appellate Officer; the Special Counsel shall not have the right to appeal any such decision by the Independent Hearing Officer.
- i. The Code of Best Practices and these Special Hearing Rules of Procedure shall apply to all cases charged by the Special Counsel after the date of enactment.

These Special Hearing Rules of Procedure shall not govern in any proceedings to impose a supervision or trusteeship.

Proceedings in Canada shall conform with the requirements of applicable Canadian federal or provincial law.

Notwithstanding the above procedures, whenever the General President determines that an emergency situation exists in which the welfare or preservation of the Union is at stake, he may suspend without pay any officer or elected union official, at any level of the organization, including without limitation all officers and/or Executive Board members of any local union, any district council, or the International Union, including members of the General Executive Board, pending the filing of formal charges in or within ten days of the date of suspension, and a hearing thereon pursuant to the provisions of sections (a) through (i) of this paragraph.

Suspension of Indicted Officers

Upon receipt of notice that any officer, agent, representative, or employee of any entity within the Union has been indicted for any felony violation of any federal, state, Canadian or Provincial law that involves the participation of any member or associate of organized crime, or for violating any federal,

state, Canadian or Provincial law relating to the conduct of the affairs of a labor organization or employee benefit or pension plan, the General President, either unilaterally or upon the Special Counsel's recommendation, may, in his sole discretion, place the accused individual on a temporary leave of absence with pay (or, in the General President's sole discretion, without pay in appropriate circumstances). The Special Counsel shall promptly institute a hearing before the Independent Hearing Officer, who shall determine whether and for how long to continue the suspension. Any such suspension shall not of itself impair the individual's eligibility to hold office currently or in the future.

Appendix A

"Racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery, and trafficking in persons), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phone records, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), sections 175-178 (relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation,

receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B).

Appendix B

"Knowingly associating" does not include (a) a Union member, representative or official meeting or communicating with a "barred person" who is an employer to discuss the negotiation, execution or management of a collective bargaining agreement, or a labor dispute, when the Union member, representative or official represents, or seeks to represent, or would admit to membership the employees of that employer; (b) a Union member, representative or official meeting or communicating with a "barred person" who is a representative of a labor organization to discuss Union matters; (c) a Union member, representative or official meeting or communicating with an officer, employee or member of LIUNA and its affiliated entities; and (d) a Union member, representative or official meeting or communicating with a relative by blood or marriage solely for social purposes. As used in this paragraph, the term "relative" shall mean a lineal descendent, stepchild, ancestor, sibling or spouse or child of a lineal descendent, stepchild, ancestor, or sibling.

RULES OF PROCEDURE FOR HEARINGS INVOLVING MATTERS BEFORE THE LIUNA INDEPENDENT HEARING OFFICER(S)

1. Pleadings

All pleadings regarding disciplinary matters before the Independent Hearing Officer(s) (IHO) including the list of charges, motions and briefs shall be filed with the Independent Hearing Officer consisting of an original and one copy. A separate copy must be served on the opposing party. The IHO will hold the pleadings confidential and permit no one except the parties and their authorized representatives to examine them during the pre-hearing and hearing stages of the proceedings. A person other than those authorized by this order who wishes to examine the pleadings at the pre-hearing and hearing stages of the proceedings must file a motion with the IHO which demonstrates a particularized need to examine the documents. The need to examine the pleadings cannot prejudice the right of all parties to a fair hearing.

Upon a final decision by the IHO which concludes the proceeding, the original record containing the pleadings and other documents will be forwarded to the General Secretary-Treasurer of LIUNA who will enter it on a formal docket as described below.

2. Notice of Charges, Pleadings, and Proceedings

(a) A member is entitled to fair notice of charges, pleadings and proceedings in sufficient time to enable the member to defend himself/herself or otherwise comply with the provisions of this Code.

(b) The Union's notice obligation is complete upon transmittal of the relevant charges, pleading, hearing notice or subpoena to the member's address by reasonable means, including by mail. For purposes

of this rule the union member's "address" is the address listed on the member's LIUNA Membership Standing Form contained in the International database.

3. Formal Docket

(a) The General Secretary-Treasurer of LIUNA shall establish a formal docket at a secure location within the General Headquarters of the Union.

(b) The security of the docket will be the responsibility of the General Secretary-Treasurer.

(c) The docket will contain all charges, pleadings, and other papers filed with the IHO, as well as all opinions and orders of the IHO, hearing transcripts, and other documents ordered by the IHO to be docketed.

(d) A separate file will be maintained for each matter, with a separate number. The details of this numbering system will be formulated at a future date. The General Secretary-Treasurer shall maintain a separate docket summary sheet, similar to those maintained by federal courts, which indicates the matter number, the date the document is entered on the docket, and a brief description of the document.

(e) The original documents placed on the docket shall not be removed except upon order by the IHO or the Appellate Officer.

(f) The documents on the docket and the docket entry sheet may be examined by members of LIUNA or their representatives upon request made to the General Secretary-Treasurer, but may not be removed from the premises of the General Headquarters except upon a written order by the IHO or the Appellate Officer. It is the responsibility of the General Secretary-Treasurer to insure that no one examining the docketed materials destroys or damages the records.

(g) Copies of the documents on the docket may be made at any time upon request of those persons who are authorized to examine the material.

(h) Persons, other than those authorized to examine the docket by these rules, who wish to examine the docket must request permission from the General Secretary-Treasurer.

4. Discovery

As a general rule, labor arbitration proceedings do not maintain the formal discovery procedure of common law courts of the United States, nor of many proceedings before administrative law judges in various state and federal agencies. Notwithstanding the informality, labor due process standards must be met, in the context of the types of hearings and their purposes.

In hearings the following discovery procedures will be followed:

(a) Motion for Full Disclosure. Title 29 U.S.C. Sec. 411 (a)(5) requires fair notice of the charges in sufficient time to enable the member to defend himself/herself. The charges should be specific enough to inform the member of the offense(s) of which he/she has been charged, but need not be as specific as a criminal indictment. The standards of particularity of Title 29 U.S.C. Sec. 411 (a)(5), as construed by the courts, will be followed. A member who believes that a charge filed against him/her is not specific enough to enable him/her to defend against it may file for full disclosure (in the nature of a bill of particulars). A motion for a full disclosure must be filed with the IHO within ten business days of the receipt of the

charge(s) by the member. A copy of the motion shall be served upon the Special Counsel. The Special Counsel shall respond within seven business days by formal reply to the IHO with a copy served on the opposing party. The IHO will rule upon the contested portions of the motion. The standards and principles of Title 29 U.S.C. Sec. 411 (a) (5) shall be interpreted and applied consistently in all investigations and hearings in Canada.

(b) Documents. Within fifteen business days of the filing of charges the Special Counsel shall identify to the member served with charges the documents which the Special Counsel intends to offer into evidence at the hearing. Upon request of the member, the Special Counsel shall make the documents available to the member by providing copies, or in the event the documents are too voluminous, the Special Counsel shall make the documents available for inspection by the member.

This provision is not intended to limit the Special Counsel from obtaining and utilizing additional documents other than those specified within the time limits set out above. In the event the Special Counsel determines that additional documents may be offered in evidence, the Special Counsel will promptly notify the opposing party of their identity to permit examination and inspection.

(c) Witness List. No later than seven business days prior to the scheduled date of the hearing, the Special Counsel shall provide the member with a list of the names of the witnesses the Special Counsel intends to call at the hearing. In the event that other witnesses become available the Special Counsel shall promptly notify the opposing party of their identity.

5. Motions

All motions must be filed with the IHO pursuant to paragraph (1) of these rules. Opposition to a motion shall be filed within seven business days. Upon petition the IHO may grant additional time to answer a motion.

6. Hearing Procedure

(a) The member charged is entitled to be represented by a lawyer or other non-lawyer representative of his/her choice, at all stages of the proceedings.

(b) The hearings will be conducted in a courtroom-like manner, although strict evidentiary rules which are ordinarily followed by common law courts will not be applied. Hearsay may be admitted provided that it is corroborated by other independent and credible evidence, is self-authenticating or there are other circumstantial guarantees of trustworthiness. However, except where the Independent Hearing Officer determines that the identity of a confidential informant must be protected due to credible and reasonable threat of bodily harm, a charged party shall be entitled to know the identity of any confidential informant upon whose evidence or testimony a witness relies. Documents admitted in evidence will be properly marked and made part of the record. All witnesses will be sworn and testimony will be transcribed by an accredited court reporter. Testimony of witnesses will consist of direct examination, cross-examination, redirect and recross. A witness once excused may be recalled with permission of the IHO. Objections and motions during the hearing shall be made according to normal courtroom procedure. Unless otherwise directed by the IHO, witnesses will be sequestered from the hearing room except during their testimony. The IHO may receive and consider evidence of witnesses by affidavit in accordance with the custom and practice of labor arbitrations.

(c) The hearings will be conducted at a location designated by the IHO. An attempt will be made to hold the hearings at locations convenient to all parties. Attendance at the hearings will be limited to the

parties, their attorneys or representatives.

(d) The burden of proof is upon the Special Counsel to convince the IHO by a preponderance of the evidence that just cause exists to discipline the charged party.

(e) Subpoenas. Either party may request the IHO to issue a subpoena *duces tecum* (for documents) or *ad testificandum* (for testimony) to a member or officer of LIUNA pursuant to Section 5(f) of the amended disciplinary rules. If the IHO is convinced that the documents or testimony sought are probative and admissible, a subpoena will be issued. Failure to comply with the subpoena will be dealt with in the manner set forth in Section 2(f) of the LIUNA Code of Best Practices pertaining to such refusals.

This section in no ways limits the subpoena power granted independently to the Special Counsel by the LIUNA Code of Best Practices.

(f) Depositions. In the event that a non-LIUNA member is willing to offer testimony, but is unavailable to appear at the hearing, either party may petition the IHO for permission to take the deposition of the person. If the moving party convinces the IHO that the testimony of the witness is probative and admissible a deposition may be taken for evidentiary purposes following as closely as possible the Federal Rules of Civil Procedure. The transcript of the deposition may be offered in evidence as part of the hearing.

(g) The IHO may request briefs and arguments on questions that arise during the hearing and may request proposed findings and conclusions.

(h) The parties may make summary arguments and submit summary briefs in conclusion.

(i) The IHO will render a decision in writing. The IHO need not await the transcription of the record to render a final decision.

(j) Following the IHO's written decision, the IHO will transmit the original record to the General Secretary-Treasurer for inclusion on the docket.

RULES OF PROCEDURE FOR ALL LIUNA LOCAL UNION TRIAL BOARD HEARINGS

Pursuant to the LIUNA Code of Best Practices adopted on _____, the following rules are hereby adopted. The rules shall take effect on _____ and shall apply to all LIUNA Trial Board Hearings.

Rule 1. Scope and Purpose of Rules

These rules govern the procedure in all Trial Board Hearings. They shall be construed and administered to secure the just and speedy determination of every matter brought before a Trial Board (hereafter, "the Trial Board"), and to ensure uniformity throughout the Union. The following rules shall in no way be construed to conflict with the Constitutions of LIUNA or the aforementioned LIUNA Code of Best Practices.

Rule 2. Commencement of Trial Board Process

Pursuant to Article XI, Section 1 of the Uniform Local Union Constitution, or Article XII, Section 1 of the Uniform District Council Constitution, any officer or member in good standing of a Local Union

may bring charges against any other officer or member, by filing written charges in duplicate with the Recording Secretary of the Local Union of which the accused is a member or with the Secretary-Treasurer of the District Council, as the case may be. 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 XI, Section 2 of the Uniform Local Union Constitution, the Recording Secretary or Article XII, Section 2 of the Uniform District Council Constitution, upon receipt of written charges against a member or officer of the Local Union or the Secretary-Treasurer in the case of a District Council in accordance with Article XII, Section 2 of the Uniform District Council Constitution, 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 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 in the case of a District Council to the Secretary-Treasurer, 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 or in the case of a District Council to the Secretary-Treasurer, 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 XI, Section 3 of the Uniform Local Union Constitution or Article XII, Section 3 of the Uniform District Council 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 or in the case of a District Council to the Secretary-Treasurer, 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 or in the case of a District Council to the Secretary-Treasurer. 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 or in the case of a District Council to the Secretary-Treasurer, 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 or a District Council 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 or in the case of a District Council to the Secretary-Treasurer, 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 may 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 or in the case of a District Council, from the District Council. The Local Union or District Council 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 or District Council; (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 or District Council and International Unions.

If the Local Union or District Council has concerns about the confidentiality of documents, the Local Union or District Council may make the documents available to the requesting party at the offices of the Local or Council, 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 or District Council 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 XI, Section 3 of the Uniform Local Union Constitution or in the case of a District Council, Article XII, Section 3 of the Uniform District Council 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 or District Council 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 General Executive Board, no members of the earlier Trial Board may serve on the new Trial Board.

Where one or more members of the Executive Board of a Local Union or District Council appear 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.

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 in the case of a District Council, the Secretary-Treasurer 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 XI, Section 4 of the Uniform Local Union Constitution or Article XII, Section 4 of the Uniform District Council 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 or in the case of a District Council by a fellow member in good standing of the Local Union or District Council. 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 or District Council shall pay for the court reporter's services.

Such recording by a licensed court reporter shall constitute compliance with the requirement of Article XI, Section 5 of the Uniform Local Union Constitution and Article XII, Section 5 of the Uniform District Council 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 or District Council 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 General President.

Rule 17. Trial Board Hearing

In accordance with Article XI, Section 4 of the Uniform Local Union Constitution and Article XII, Section 4 of the Uniform District Council 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 or District Council if the President has been disqualified. If no Local Union or District Council 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 strict 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 in the case of a District Council to the Secretary-Treasurer 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 Findings and Decision

In accordance with Article XI, Section 5 of the Uniform Local Union Constitution and Article XII, Section 5 of the Uniform District Council 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 or read to the membership, 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 or District Council. 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 XI, Section 6 of the Uniform Local Union Constitution and Article XII, Section 6 of the Uniform District Council Constitution, a copy of the Trial Board Report shall be submitted at the next regular meeting of the Local Union or District Council. 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 or in the case of a District Council the Secretary-Treasurer 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 XI, Section 7 of the Uniform Local Union Constitution and Article XII, Section 7 of the Uniform District Council 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 notice thereof with the General Secretary-Treasurer. 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.

After notice of such appeal to the General Executive Board, the Local Union shall then submit promptly to the General Secretary-Treasurer, 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 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.

Rule 31. Scope of Review

Trial Board decisions on appeal will be upheld so long as they are supported by substantial evidence, that is, enough evidence that reasonable minds might accept it to support a conclusion and are not based on errors of law. The same standard will be applied as to timeliness of charges and as to practices.

**RULES OF APPEALS TO THE LIUNA
APPELLATE OFFICER**

The following rules of procedure are set forth to provide the parties appearing before the Appellate Officer ("AO") with information about how the proceedings will be conducted. This announcement is for informational purposes only, and the AO reserves the right to change the procedures in any given case in his discretion to improve the effectiveness or efficiency of the proceedings, at the request of the parties, or as the need may arise.

Rule 1. Scope of Rules. Pursuant to the LIUNA Code of Best Practices, the following rules are hereby adopted. The rules shall apply to all appeals to the AO from decisions rendered by the Independent Hearing Officer ("IHO").

Rule 2. Pleadings.

- (a) **Address for filing.** All pleadings referred to in these rules, including notices of appeals, motions, briefs, and appendices, shall be filed with the AO at this address: W. Neil Eggleston, LIUNA Appellate Officer, Debevoise & Plimpton LLP, 555 13th Street N.W., Suite 1100E, Washington, D.C. 20004.
- (b) **Number of copies to be filed; requirement of service.** Only one copy of any pleading shall be filed with the AO. In all cases, the party submitting any pleading or documents to the AO must serve a separate copy on the opposing party or parties as provided in AO R. 3.
- (c) **Confidentiality of pleadings.** The AO will hold the pleadings confidential and permit no one except the parties, their authorized representatives, or others who in the discretion of the AO would contribute to the resolution of the matter, to examine the pleadings during the pendency of the proceedings.

Rule 3. Filing and Service.

- (a) **Method of filing.** Filing of pleadings or other documents may be accomplished by mail or

courier to the AO. The AO will also accept filing of pleadings by facsimile so long as the party filing by facsimile also arranges for an original copy to be delivered to the Appellate Officer by mail or courier. Pleadings will be treated as filed on the day of mailing or transmittal.

- (b) **Materials must be served on other parties.** Any pleadings, materials, letters, or other documents that are submitted to the AO while an appeal is pending first must be sent via first-class mail to all other parties involved in the matter at their last known address. Any materials transmitted to the AO by facsimile must also be first transmitted by facsimile to the other parties involved in the case, unless it is not possible to do so, in which case the materials must be provided to all the other parties in an expeditious fashion.

Rule 4. Notice of Appeal.

- (a) **Time for filing.** A party wishing to appeal a final decision or appealable order of the IHO must file a notice of appeal with the AO within ten (10) days of the filing of the decision or order sought to be appealed.
- (b) **Content of the notice of appeal.** The notice must indicate: (1) the party or parties taking the appeal; (2) the date of the decision below; and (3) the names of counsel for or other authorized representative of each party, if any.
- (c) **Cross-Appeals.** Within ten (10) days after the date of filing of any timely notice of appeal, any other party in the case may file a cross-appeal containing the same information specified in AO R. 4(b).

Rule 5. Appeal Forms. Upon receipt of a notice of appeal, the AO will send an appeal form to the appealing party requesting basic information about the matter being appealed and whether or not the party requests a hearing for oral argument. The party appealing should fill out the form and send copies to the AO and all other parties within ten (10) days of receiving the form. The AO may dispense with the requirement of an appeal form in particular cases.

Rule 6. Briefing Schedule. In cases in which the AO believes it would be useful for the parties to submit written briefs stating their positions, the AO will set a briefing schedule upon each party indicating when each party's briefs are to be filed. The briefing schedule may also set forth the page or word limits applicable to each party's briefs. In appropriate cases, the AO, upon the motion of any party or on his own motion, may order expedited briefing and argument. The AO may dispense with written briefing in particular cases and resolve the appeal based on the preexisting record.

Rule 7. Briefs.

- (a) **Principal Briefs.** The principal briefs of the appellant and appellee shall contain the following:
 - (1) A statement of the issues presented for review.
 - (2) A statement of the facts relevant to the issues presented for review. All facts stated shall be supported by reference to the page or pages of the record or appendix where the fact appears.
 - (3) An argument.
 - (4) A short conclusion stating the relief sought.

(b) **Reply Brief.** The appellant may file a reply brief responding to the appellee's brief.

Rule 8. Record on Appeal; Appendix to the Briefs.

(a) **Appeal to be Decided on Record Developed Below.** The AO ordinarily will decide any appeal based on the record compiled before the IHO in the particular case. Upon receipt of the notice of appeal or the establishment of a briefing schedule, the AO will request that the record be forwarded by the tribunal whose decision is under review.

(b) **Appendix.** In particular cases, the AO may elect to require the parties to prepare and submit an appendix to their briefs. If so ordered by the AO, the appellant shall submit, bound separately from the principal brief, one copy of an appendix containing any opinion, memorandum of decision, report or finding of facts and conclusions of law issued by the lower tribunal in support of its decision. The appendix shall also contain copies of any other opinions, orders, excerpts from transcripts and other documents relevant to the issues raised on appeal. The appellee may also submit with its brief one copy of an appendix containing any materials not contained in the appellant's appendix.

Rule 9. Computation and Extensions of Time.

(a) **Computation of Time.** In computing any period of time of fifteen (15) days or fewer prescribed by these rules or a briefing schedule, only business days shall be included. In computing any period of time of sixteen (16) days or more prescribed by these rules or a briefing schedule, all calendar 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. In all instances in which a responsive pleading or brief is required, the time period shall commence running from the date the brief was mailed or otherwise transmitted. If the calculation of time established under these rules would otherwise require a document to be filed on a date that is a Saturday, Sunday, or legal holiday, the deadline to file such document shall be extended to the next date that is not a Saturday, Sunday, or legal holiday.

(b) **Enlargement of Time.** The AO may enlarge the time prescribed by these rules on request of any party or in his own discretion. A party wishing to request an enlargement of time shall set forth its request in a letter submitted to the AO stating the reasons for the request, and a copy of such letter shall be served on all other parties as provided in Rule 3.

Rule 10. Oral Argument. Any appealing party may request a hearing for oral argument in its appeal form. Either the party appealing or any other party involved in the appeal may request a hearing for oral argument in their principal briefs. The AO may also request oral argument, to be held by telephone or in person, on his own motion in the absence of a request by either party. If oral argument is requested, the AO will notify each party within a reasonable time of the date, method and location for the argument. In the event the argument is to be held in person, an attempt will be made to hold oral argument at a location convenient to all parties. Any interested LIUNA member or officer may attend the hearing.

Rule 11. Hearing Room. The hearing room will typically be set up as a conference table. The AO and any assistant will sit at the head table. Each of the parties to the appeal and any related or interested parties will sit respectively on either side of the table.

Rule 12. Record. All appellate hearing will ordinarily be transcribed. The lack of a court reporter shall

not be cause for delay in the hearing except as the AO may determine in his own discretion. The AO may dispense with transcription in appropriate cases.

Rule 13. Appellate Counsel. Parties appearing before the AO may, in the discretion of the AO, be represented by a representative who is a member in good standing of the Laborers' International Union of North America or an attorney subject to the ethical obligations and professional standards of the legal profession. Any attorney who intends to represent any party to an appeal is requested to enter his or her appearance with the AO at the earliest practicable opportunity.

Rule 14. Commencing the Hearing. The AO will open the session with brief introductory remarks describing the scope of the appeal, the nature of the proceeding and determining whether any of the parties have any questions concerning the proceeding.

Rule 15. Hearing. The appealing party will generally be given the opportunity to speak first. That party should state the reasons for appealing the conclusions reached by the trial tribunal. The responding party (appellee) will then have the opportunity to address the AO and explain why the decision of the trial tribunal was correct and should be affirmed. The AO controls the order, duration, and method of presentation of argument.

Rule 16. Multiple Issues. In those appeals raising several issues, the parties and the AO may decide to address one issue at a time: that is, the appellant may raise one issue and hear the response from the other party before continuing to the next issue. On those appeals presenting fewer issues, the AO may decide that it would be more efficient for the appealing party to address all of the issues in his or her initial presentation followed by a response on all the issues from the appellee.

Rule 17. Non-parties. The AO may entertain arguments or comments from others attending the proceedings as long as, in the judgment of the Appellate Officer, their participation would be helpful in rendering a decision.

Rule 18. Additional Testimony. Although it is discouraged, the AO retains the discretion to permit additional testimony or the receipt of additional documents not considered by the trial body in an appropriate case. The AO is substantially more likely to reject a party's request to present such testimony or new documents where the AO and the opposing side have not been informed in advance of such additional information.

Rule 19. Terminating the Hearing. The AO retains the discretion to terminate the hearing if he determines that further argument or the receipt of additional evidence would not be helpful to the resolution of the appeal.

Rule 20. Petition for Reconsideration. A petition for reconsideration may be filed within ten (10) days after the AO renders a decision. The petition shall state the points of law or fact which, in the opinion of the petitioner, the AO has overlooked. There will ordinarily be no oral argument in support of a petition. No answer to a petition will be received unless requested by the AO. If a petition for reconsideration is granted, the AO may make a final disposition of the case without reargument.

Rule 21. Motions. Unless otherwise provided under these rules, an application for an order or other relief shall be made by filing a motion with service on all parties. Unless the time for filing a response is modified by the AO, any party may file a response in opposition to a motion within seven (7) days after the motion is mailed or otherwise transmitted. No oral argument will be heard on motions unless

otherwise ordered by the AO.

Rule 22. Permissive Appeals. An appeal from a ruling other than a final disposition by the IHO, CIHO, or SEO may be sought by filing with the AO a petition for leave to appeal. Allowance of such an appeal is disfavored, and is within the discretion of the AO. The petition shall be filed within ten (10) days of the ruling from which appeal is sought. A notice of appeal need not be filed. The petition for leave to appeal shall contain: (1) a statement of the facts necessary to an understanding of the issues to be presented by the appeal; (2) a statement of those issues and of the relief sought; (3) a statement of the reasons why in the opinion of the petitioner the appeal should be allowed; and (4) a copy of the ruling complained of and any opinion or memorandum relating thereto. No answer to a petition will be received unless requested by the AO.

Rule 23. Remand or Referral for Further Investigation. The AO reserves the right to remand any matter to the IHO for further investigation or fact-finding. The AO may also refer any matter for inquiry by the LIUNA Inspector General or Special Counsel.

Rule 24. Substantial Compliance. The AO may, in his discretion, consider pleadings that are untimely or otherwise not in technical compliance with these rules.

***JOB REFERRAL GUIDELINES**

In order for the Laborers' International Union of North America (LIUNA), and its subordinate local unions, to maintain and administer a processing system for referral of applicants to employment in a fair and equitable manner, and to establish records and procedures which will be adequate to disclose fully the basis on which each referral is made, the following guidelines have been promulgated and shall be adopted and implemented by each LIUNA Local Union:

1. Requirements And Review Process

Each Local Union in the United States shall adopt written referral rules conforming to the revised Hiring Hall Guidelines, set forth below. The purpose of these Hiring Hall Guidelines is to maintain and administer a processing system for referral of applicants to employment in a fair and equitable manner, and to establish records and procedures which will be adequate to disclose fully the basis on which each referral is made.

All rules and policies pertaining to the referral of applicants must be written and prominently posted in the Local Union office and hiring hall. All referral issues not specifically mandated by the following Guidelines must be individually approved by membership vote at two consecutive meetings and then submitted, with the relevant minutes, for the General President's review and approval.

***Pursuant to Resolution 28 approved by the delegates to the 24th Convention all U.S. affiliates are strongly encouraged but are not required to comply with the Job Referral Guidelines in the operation of non-exclusive referral systems. Should an affiliate choose not to comply in that circumstance, the affiliate must comply with applicable external laws and notify the office of the General President as to the rules applicable to non-exclusive referrals.**

Once approved by the General President or his designee, all referral rules will remain in effect indefinitely; renewed approval is not required.

2. Non-Discrimination in Job Referrals

Referrals to jobs will be on a nondiscriminatory basis and will not be based on, or in any way affected by, race, gender, national origin, sexual orientation, disability, religion, or lawful union-related activity.

3. Effect on Hiring Hall Guidelines

All referrals by a Local Union to jobs within its jurisdiction shall be made in accordance with these Guidelines except to the extent that any rule contained herein conflicts with a term of the collective bargaining agreement. Any Local Union that concludes that these Guidelines conflict with the term of a collective bargaining agreement shall submit a Notice of Conflict citing the relevant sections of the agreement and the Hiring Hall Rules to the General President. The General President shall advise the Local Union in writing whether such a conflict exists.

4. Registration of Availability for Referral

A. An applicant seeking referral to a job must file with the Local Union a signed and dated referral form providing name, telephone number, social security number, and stating any skills the applicant possesses and the jobs the applicant is able to perform, including any relevant licenses or certifications. Blank referral forms will be available at the Local Union. The Local Union will compile an out-of-work list, consisting of the applicants who have registered their availability for referral, listed in order of seniority according to their date of registration. The Local Union may confirm any prior employment, licenses, or certifications listed by an applicant. The Local Union may challenge an applicant's representations concerning his prior employment, licenses, or certifications. If the Local Union makes a challenge, it must promptly notify the applicant in writing, who shall have five business days from the receipt of this notice in which to respond and to submit any relevant information. Any applicant who remains aggrieved by a final decision of the Local Union may file a protest with the General President, who shall finally resolve all such disputes.

B. Apprentices shall be referred under a separate out-of-work list, in order according to the requirements of the apprenticeship program.

C. Only applicants who are not currently employed at the trade may register their availability for referral.

D. Applicants shall be removed from the out-of-work list upon receiving a job referral, subject to the Local Union's stated short-term referral policy (this may include instituting a policy whereby applicants are removed from the referral list after a single referral, regardless of the duration of the job). An applicant who is laid off or discharged from a job must again register his or her availability for referral by telephone, postcard, or in person, in accordance with the Local Union's written policy, in order to be included on the out-of-work list.

E. Applicants must also register their availability for referral periodically (once each month, ninety days, or half year), in accordance with the Local Union's written policy.

5. Referral Procedure

A. Applicants on the out-of-work list shall be referred to jobs in the order in which they have registered their availability for referral, with the first registered applicant referred first, provided that the applicant has the qualifications requested by the employer.

B. Requests by an employer for specific applicants should be made in writing or, if made orally, shall be confirmed promptly by the employer in writing.

C. The Local Union shall record all employer requests for laborers, the date and time of the request, the name of the dispatcher, the name of the employer, the location of the job, and the start date of the job.

D. An applicant shall not be referred to an employer if the applicant was previously discharged for cause by the same employer.

6. Dissemination of the Referral Rules

All rules and referral policies must be in writing. These Guidelines and all Local Union referral rules and policies must be posted conspicuously in the office and hiring hall of each Local Union, where they are available for review at all times in which the Local Union is open. Additional copies of these Guidelines and all Local Union referral rules shall be made available to members upon request, subject to the payment of reasonable copying costs. New members shall receive a free copy of the job referral rules upon admission to membership.

7. Job Referral Records

A Local Union shall maintain accurate and current records of all job referrals. The records shall be preserved for a period of three (3) years from the making of each record. The records shall include the following information:

A. Under telephone referral systems where the Local Union calls the applicant, the Local Union must record all referral attempts, including the date and time of the call(s), the name of the person making the call(s), and the outcome of the call.

B. Under telephone bid systems, the Local Union must record every bid received, including the name of the applicant, the time of his or her call, the name of the office employee who took the call, and the job the applicant was bidding for.

C. Under in-person referral systems, the Local Union must record the attendance of every applicant and the outcome of each attempted referral made by the Local Union or bid for referral made by the applicant.

D. Under all referral systems, the Local Union must also record:

All registration by applicants of their availability for referral, including the date of each applicant's registration;

A current out-of-work list, including all applicants whose registrations of availability for referral are then in effect, listing the date of each applicant's registration, and organized according to seniority;

All requests from employers for workers, including the date of each requests, the name of the employer, the location of the job site, the length of the job (if known), and any request by the employer for applicants with special skills, licenses, or certifications, or a specific applicant pursuant to 5(B), above.

All job referrals made, including the name of the employer, the applicant referred, the date on which the applicant registered his or her availability for employment, the date of the referral, the location of the job

site, the date the applicant was hired, and the date any employment terminated.

8. Access to Job Referral Information

A. The Local Union must promptly respond to any applicant's request for access to any record containing the job referral information described in §7, pertaining to periods during which the applicant was registered for referral. Access to records includes the right to photocopy or take notes from all referral documents. Local Unions may adopt rules that restrict access to Social Security Numbers and, where there is a concern that such information may be misused in a manner contrary to the interests of the local union, members' telephone numbers. In all cases, however, applicants must be provided sufficient information to determine the identity of all individuals registered, contacted, or dispatched for employment. An appointment for inspection shall be scheduled for within five (5) days of request. Copies shall be provided promptly, subject to reasonable copying costs.

B. Lists containing the information described in §§7D shall be conspicuously posted, or otherwise immediately available for inspection, at the offices of a Local Union on a weekly basis, so that the previous week is posted or immediately available by the close of business on the following Monday. The information shall remain posted or immediately available for at least two weeks.

9. Alleged Violations of Hiring Hall Rules

Any complaints or concerns regarding alleged violations of the Code of Best Practices or of hiring hall procedures should be directed in writing to the Office of the General President, Laborers' International Union of North America, 905 16th St., NW, Washington, D.C. 20006.

**GENERAL EXECUTIVE BOARD'S
POLICY ON CONTRACT PROCEDURES**

Pursuant to its authority under Article VIII, Sections 2(c) and (n) of the Constitution of the Laborers' International Union of North America and in order to accomplish more fully the purposes of the LIUNA Code of Best Practices, it is hereby declared to be the policy of the General Executive Board that all proposed contracts in excess of three hundred fifty thousand (\$350,000.00) dollars to be entered into by LIUNA or any of its affiliated or subordinate bodies shall be submitted to the General President. If the General President determines that entry into such contract is inconsistent with the objectives and purposes of the Code, LIUNA or its affiliated or subordinate body may not enter into such contract. No proposed contract shall be subdivided or apportioned in order to avoid the intent and purposes of this policy. The General President should be provided with such advance notice of the proposed contract as may be reasonable in the circumstances to allow him to form an informed judgment.

**GENERAL EXECUTIVE BOARD'S POLICY ON GIFTS OR DONATIONS OF UNION
ASSETS OR PROPERTY**

Pursuant to its authority under Article VIII, Sections 2(c) & (n) of the Constitution of the Laborers' International Union of North America and in order to accomplish more fully the purposes of the Code of Best Practices, it is hereby declared to be the policy of the General Executive Board that any proposed gift or donation of Union property or assets to be made by LIUNA or any of its affiliated or subordinate bodies, where such gift or donation exceeds the fair market value of twenty-five

thousand(\$25,000.00) dollars shall be reported to the General President. The General President may disapprove thereof upon his determination that such gift or donation is inconsistent with the objectives and purposes of the Code. No proposed gift or donation shall be subdivided or apportioned in order to avoid the intent and purposes of this policy. It shall further be the policy of the General Executive Board that any member who serves as trustee of any pension benefit plan or welfare benefit plan or other fund associated with LIUNA or its affiliated or subordinate bodies, including but not limited to LECET funds and training funds shall recommend to the trustees of such fund that any gift or donation meeting one or more of the thresholds set forth above shall be reported to the General President. If the General President determines that such gift or donation is inconsistent with the objectives and the purposes of the Code, he shall so advise the fiduciaries.

GENERAL EXECUTIVE BOARD'S AMENDED POLICY ON REPORTING ARRESTS AND INDICTMENTS

Pursuant to its authority under Article VIII, Sections 2(c) and (n) of the Constitution of the Laborers' International Union of North America and in order to accomplish more fully the purposes of the LIUNA Code of Best Practices, and to ensure compliance with Section 411 of the Employee Retirement Income Security Act of 1974, it is hereby declared to be the policy of the General Executive Board that any member of the GEB, any officer of any affiliated or subordinate body, and all members serving as trustees on any employee benefit plan, fund, or trust shall notify the General President in writing whenever it shall come to their attention that any member, employee, officer or labor trustee is arrested, indicted or otherwise charged with any felony under the laws of Canada or the United States or any province or state thereof or with any offense relating to the conduct of the affairs of a labor organization or employee benefit plan, such written notice to be provided within five (5) calendar days of receiving notice of such arrest, indictment, or charge, whichever may occur soonest. The General President shall then so advise the Inspector General.

REVISED GENERAL EXECUTIVE BOARD'S POLICY ON PAYMENT OF LEGAL FEES WITH UNION FUNDS

Pursuant to its authority under Article VIII, Sections 2(c) and (n) of the Constitution of the Laborers' International Union of North America and in order to accomplish more fully the purposes of the LIUNA Code of Best Practices, it is hereby declared to be the policy of the General Executive Board that funds of the Union may not be used for the payment of the legal fees or expenses for the representation of any Union officer, member, or employee indicted or formally charged criminally for an offense involving performance of duties for the Union, or for the representation of any Union officer, member, or employee defendant in a civil action alleging a breach of fiduciary duties after good cause has been shown for the action; provided: if the Union officer, member, or employee successfully defends against the indictment, criminal charges, or allegations in a civil action, or if such charges or allegations are not or cannot be sustained or are dismissed or withdrawn, the Union in its discretion and consistent with fiduciary principles may reimburse the legal fees and expenses of the officer, member, or employee in such amount and manner as the Union finds properly allocable to the defense against those charges or allegations which are not found or not sustained or dismissed or withdrawn.

It is further hereby declared the policy of the General Executive Board that the funds of the Union may not be used to pay the legal fees or expenses of Union officers, members, and employees to defend against investigations and charges of barred conduct brought under the Code; provided: If the investigation for any reason does not result in charges of barred conduct, or if charges of barred conduct are not sustained or are dismissed or are withdrawn, in whole or in part, the Union in its discretion and

consistent with fiduciary principles may reimburse the legal fees and expenses of the officer, member, or employee in such amount and manner as the Union finds properly allocable to the defense during the investigation or against those charges which are not found or not sustained or dismissed or withdrawn.