

SUBMITTED BY: Delaware Chapter 2100

SUBJECT: Article IX – Charges, Section 2(A)

RATIONALE: There are no timeframes established in the OCSEA Constitution and it needs to be addressed. Language added to mimic AFSCME's established timeframes.

BE IT RESOLVED THAT ARTICLE IX OF THE OCSEA STATE BY-LAWS BE AMENDED AS FOLLOWS:

**Article IX – Charges**

**Section 1. Basis for Charges**

Charges may be brought against a member or officer solely for the reasons set forth in Article XIII of the State Constitution.

**Section 2. Due Process**

(A) When charges are filed against a member, they shall be reviewed by the Judicial and Internal Affairs Committee (JIAC) **within 30 days** and, if actions are to be taken, a hearing shall be scheduled. **This hearing shall be held within 60 days from the date the charges were filed. This timeframe may be extended by written mutual agreement of both parties.** All members involved shall be given written advance notice of the date, time and location of any hearing to be held, together with a written copy of the allegations and an invitation to attend the hearing.

(B) In such hearing, the JIAC will hear and review all evidence and, by a majority vote of those present, based on the preponderance of the evidence, shall determine the guilt or innocence of the affected member to each allegation in the charge. At the hearing, no member or charging party may be represented by any person who is a member of, representative of, or in any way connected with a competing organization. The hearing shall be conducted pursuant to rules established by the JIAC.

(C) If the member is found guilty, the committee may recommend to the Board of Directors that the member be warned, fined, suspended from membership for a period certain, removed from office, or expelled from membership permanently. No suspension, fine, removal from office, or expulsion from membership shall be effective until the Board of Directors concurs in the recommendation.

(D) Where JIAC recommends to fine, suspend, remove or expel a member, JIAC shall present their recommendation in writing to the Board of Directors no later than one (1) day prior

Committee Assign \_\_\_\_\_ Committee Recommend \_\_\_\_\_ Convention Action \_\_\_\_\_ Requires Majority Vote

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26 to the Board voting on JIAC's recommendation and shall include at least the following separate  
27 items:

- 28 1. A statement of charges;
- 29 2. A summary of the evidence;
- 30 3. A finding of fact;
- 31 4. The recommendation of a penalty.

32 (E) At the next meeting of the Board of Directors following any hearing, action shall  
33 be taken on the committee recommendation. A two-thirds (2/3) vote of the Board of Directors  
34 present shall be required to modify the recommendation of the committee. The member involved  
35 shall be permitted to attend such Board of Directors' meeting and state his or her views, before  
36 both the Judicial and Internal Affairs Committee and the Board of Directors.

37 (F) Appeal and due process procedures shall be provided to all interested parties  
38 when any matter pertaining to irregularities and/or disputes in the various Chapters, District  
39 Councils, or Assemblies is brought before the Judicial and Internal Affairs Committee. All  
40 interested parties shall be afforded the following procedural rights: (1) timely notice of hearing,  
41 (2) an opportunity to testify before the committee at the hearing, (3) the right to have  
42 representation, if desired, (4) the right to appeal, and (5) the right of the accused to choose either  
43 an open or closed hearing.

44 (G) Should the Judicial and Internal Affairs Committee determine that dissolution of a  
45 Chapter, District Council or Assembly is imminent; the Committee may consider the internal  
46 irregularities and make a recommendation to the Board of Directors relative to imposition of  
47 trusteeship without affording interested parties one or more of the procedural rights set forth  
48 above.

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