



PSAC Constitution

Regulation 19



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

REGULATION 19
REGULATION GOVERNING MEMBERSHIP DISCIPLINE
(As amended June 6, 2025)

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Preamble

PSAC strives to represent and protect the interests of its members, defend access to quality public services, promote social justice, and achieve an inclusive society free of all forms of discrimination.

In order to fulfill its mandate and promote its values, it is essential for PSAC to be a strong union whose members work together harmoniously and effectively to achieve this common purpose.

Violations and offences under the Constitution and by-laws of our union are serious matters that risk weakening the union and its ability to fulfill its mandate. It is important to have a sound, fair and impartial process for addressing these offences; and this is what this Regulation seeks to achieve.

However, using the procedures under this Regulation for improper purposes poses an equally significant risk of weakening the union. This includes using this Regulation for political gain or in order to address mere interpersonal conflict that does not have a foundation in an offence under the Constitution or by-laws. The use of the Regulation for such purposes results in the union's resources being redirected away from the critically important goals stated above and towards these improper purposes that do nothing to build a strong, functioning, harmonious union. In fact, it does the complete opposite.

Therefore, members are expected to use this Regulation to address matters that truly constitute offences of the Constitution or by-laws and for no other purpose. Wherever possible and appropriate, members are encouraged to attempt to resolve and address issues among themselves or through other informal means of informal conflict resolution rather than resorting to the formal and resource-intensive procedures under this Regulation where not necessary.

When a complaint has been filed, receiving officers should offer mediation or other forms of restorative resolution as a method to address complaints wherever possible and appropriate.

1. Scope and Purpose

- 1.1 This Regulation applies to all members of the union. It addresses the disposition of member discipline within PSAC and outlines the processes and procedures for addressing offences enumerated under Section 25, Sub-Section (6) of the PSAC Constitution. It may also be used to address offences enumerated under any Regional, Component, Local/Branch, Directly Chartered Local ("DCL"), Regional Committee or Area Council By-laws.
- 1.1.1 Where a Component, Local, Branch, DCL, Region or Area Council has established disciplinary procedures for dealing with offences under their own by-

laws, those procedures must be consistent with the PSAC Constitution and Regulations, as well as principles of procedural fairness and due process.

- 1.2 The purpose of this Regulation is to provide members with an internal process to have disciplinary complaints dealt with in a fair and impartial manner. This Regulation is not to be used for political gain or to resolve interpersonal conflict that does not have a foundation in an offence(s) enumerated under Section 25, Sub-Section (6) of the Constitution), and/or offences enumerated under any Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-laws.
- 1.3 Complaints that arise from workplace situations that are unrelated to union business are generally dealt with through the employer's workplace policies, procedures under the collective agreement, and/or other applicable legal processes governing the employer-employee relationship.
- 1.4 The union has the right to vary the procedures set out under this Regulation where it is required to do so by law. For example, this includes circumstances where provincial legislation and/or jurisprudence mandates certain additional or different procedural steps that must be followed in union disciplinary processes in those jurisdictions. Therefore, the disciplinary procedure applied under this Regulation may vary in such circumstances, in order for the union to meet its legal obligations.

Situations involving PSAC Members and PSAC staff

- 1.5 Complaints brought by a PSAC member against a staff person employed by the PSAC Centre, a Component, Local/Branch or DCL, or a complaint brought by one of these staff persons against a PSAC member, will be handled in accordance with: the process outlined in the staff person's collective agreement, internal workplace policies of the PSAC entity, and applicable legislation. These collective agreements, policies, and legislation may require the PSAC entity, in its capacity as an employer, to take certain measures, including conducting a workplace investigation. (This is referred to throughout this section as the "Workplace Investigation").
 - 1.5.1 Where a member has a complaint against a staff person, they may report it to the Receiving Officer, as set out in Appendix A to this Regulation; and that Receiving Officer will ensure the matter is directed to the appropriate individual. Where a staff person has a complaint against a member, they may report it according to the procedure set out in the collective agreement and/or workplace policies and procedures applicable to them.
 - 1.5.2 Where a Workplace Investigation substantiates allegations against a PSAC member and the member's conduct may also constitute a violation of the Constitution, this Regulation may be engaged. A complaint may be made under

this Regulation as follows:

- (a) Upon receipt of the results of the Workplace Investigation, the PSAC National President (or their designate), Component President, or Regional Executive Vice President may assess whether to file a complaint. If they determine that a complaint should be filed, it will submit a complaint to the applicable Receiving Officer, as outlined in Appendix A.
- (b) The Receiving Officer will conduct a preliminary assessment of the complaint and results of the Workplace Investigation, as per Section 6 of this Regulation.
- (c) If the Receiving Officer deems that an investigation under this Regulation is warranted, the investigation may be initiated, subject to the following conditions:
 - An External Investigator (selected from the PSAC Roster of External Investigators referred to at Section 9 of this Regulation) will be appointed to conduct the investigation;
 - The External Investigator may rely upon the prior Workplace Investigation Report and factual findings as part of their evidence, in order to avoid unnecessary re-duplication, where appropriate.
- (d) Once the investigation has been completed, the External Investigator's Report will be submitted to the Validating Body in accordance with Section 15 of this Regulation. Once the Validating Body is in receipt of the Report of the External Investigator, the remainder of the process set out under this Regulation will be followed, in order to determine what, if any, discipline will be imposed on the member.

Incidents arising at Union Events

- 1.6 Complaints regarding harassment, discrimination, or other Code of Conduct violations that occur at PSAC events will be handled as per the procedure set out in the "PSAC Member Code of Conduct and Anti-Harassment Policy for Union Events". If the complaint is not resolved through the procedures set out in that Policy, a complaint may be filed under this Regulation. The host or organizer of the Union Event will act as the Receiving Officer for such complaints; and their executive will act as the Validating Body.
- 1.6.1 For any events where it is unclear who the host or organizer is, the complaint may be submitted to the Receiving Officer indicated in the chart at Appendix A of this Regulation. (If that Receiving Officer is not the appropriate officer to receive

the complaint, they will forward it to the appropriate individual). A member who has difficulty interpreting the chart at Appendix A may seek clarification from their Component President, REVP or the PSAC National President.

2. Definitions

In this Regulation:

- 2.1 **Alternative dispute resolution** refers to mechanisms for resolving conflicts and/or complaints outside of the formal process outlined in this Regulation, as described in Section 4, below.
- 2.2 **Receiving Officer** refers to the designated PSAC elected official that may receive complaints, as outlined in Appendix A of this Regulation.
- 2.3 **Validating Body** refers to the designated PSAC body identified at Appendix A of this Regulation. The Validating Body has the power to confirm and validate the discipline to be imposed on a member. The type of discipline that the Validating Body may impose, includes, among other things, the removal of a member from office (other than the PSAC National President). However, the Validating Body does not have the power to suspend or expel members from PSAC, as this power is solely within the purview of the National Board of Directors.
- 2.4 **Standing Discipline Committee of the National Board of Directors** refers to the Committee as governed by Regulation 19A.
- 2.5 **Technical Advisor(s)** refers to a person who may be assigned to provide support, advice and guidance concerning procedural matters to the Investigation Committee and/or the Parties, as outlined in Section 7 of this Regulation. The Technical Advisor will have education and/or experience in conducting procedurally fair and trauma-informed investigations.
- 2.6 **Trauma-informed** refers to an approach to addressing and resolving complaints under this Regulation with regard to: a recognition and knowledge of the impact of trauma as well as the signs and symptoms of trauma; responding to complaints under this Regulation that are based on knowledge of trauma and striving to avoid traumatization while maintaining a fair and impartial process.
- 2.7 **The Complainant** refers to the member who brings a complaint under this Regulation.
- 2.8 **The Respondent** refers to the member against whom a complaint is brought and may be subject to discipline under this Regulation.
- 2.9 **The Parties** refers to the Complainant(s) and Respondent(s) collectively.

3. Guiding Principles

- 3.1 All provisions of this Regulation are to be interpreted and applied in a manner that is trauma-informed and consistent with principles of human rights and procedural fairness. Complaints made pursuant to this Regulation will be dealt with in a manner that is timely, fair, neutral, trauma-informed, and respectful of the human rights of all parties.
- 3.2 This Regulation is also guided by the acknowledgement of the unique nature of complaints pertaining to incidents of sexual harassment, and the particular importance of ensuring those complaints are dealt with appropriately and in a trauma-informed manner.
- 3.3 Timelines under this Regulation may be extended and/or other accommodations may be made to vary the procedure set out under this Regulation, including where doing so would be in the best interest of maintaining procedural fairness, human rights, a trauma-informed approach to disciplinary matters and resolving conflict between members.
- 3.4 The procedure for dealing with any disciplinary situation which may arise which is not specifically covered under this Regulation shall be deemed to be covered and processed within the spirit and intent of this Regulation.

4. Informal and Alternative Dispute Resolution

- 4.1 Wherever possible and appropriate, informal resolution or forms of alternative dispute resolution will be encouraged as an effective means of resolving conflict and/or complaints. Members are generally expected to attempt to resolve differences through collaborative, cooperative, and respectful dialogue or other forms of alternative dispute resolution rather than filing formal complaints.
- 4.2 Where appropriate, PSAC will support parties to resolve conflict and/or complaints through forms of alternative dispute resolution including: informal intervention, mediation, facilitated discussion, coaching and/or Indigenous forms of dispute resolution. No formal complaint need be filed under this Regulation in order for members to seek and receive the union's assistance with conflict resolution.
- 4.3 Where a formal complaint has been filed under this Regulation, and where appropriate, the Receiving Officer will encourage parties to engage in forms of alternative dispute resolution prior to the commencement of further steps in the process. The use of mediation or other forms of alternative dispute resolution can also occur at any point in the complaint process.
- 4.4 Reasonable costs associated with mediation and/or other forms of alternative dispute resolution will be covered by the executive body on which the appropriate Receiving Officer of the complaint sits, or in some circumstances may be

charged back to the local.

- 4.5 Where a formal Complaint has been filed and it is resolved by way of mediation or other form of alternative dispute resolution, the appropriate Receiving Officer will be notified in writing that the matter has been resolved and the Complaint will be closed. The Receiving Officer will ensure to keep a record of the fact that the Complaint has been resolved and closed.
- 4.6 Where a formal Complaint has been filed and mediation or other forms of alternative dispute resolution prove unsuccessful in resolving the matter, the appropriate Receiving Officer will be notified, and the complaint will be treated per this Regulation.

5. Filing a Complaint

- 5.1 Complaints under this Regulation can be made by any member against any other member.
- 5.2 The Complaint must be submitted to the appropriate Receiving Officer, as indicated at Appendix A to this Regulation. However, where there is a compelling reason for doing so, the disciplinary complaint process may be initiated at a higher level than the level indicated in the chart found at Appendix A.
- 5.3 The Complaint must be made in writing and must include:
 - (a) Specific details of the complaint, including the nature of the alleged offence(s); the members involved; and the date(s) and circumstances under which the alleged offence(s) took place; and
 - (b) The specific provision(s) of the Constitution and/or Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-laws that are alleged to have been violated.
- 5.4 If the complaint is missing any of the above required details and/or fails to properly reference the relevant provision(s) of the Constitution and/or By-Laws, the Receiving Officer may ask the Complainant to re-submit the complaint with the appropriate details included.
- 5.5 Group complaints cannot be submitted. Each member wishing to submit a complaint must do so in writing as per the procedure outlined in sections 5.2 and 5.3.
- 5.6 Complaints may also be initiated by any PSAC officer, where they become aware of member conduct that may constitute discrimination, harassment and/or other conduct that constitutes an offence under the Constitution and/or a Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-Law.

Deadline for filing complaint

- 5.7 The Complaint must be submitted as soon as possible, and no later than 1 year after the offence(s) occurred. In the case where multiple related incidents are alleged, the deadline is one year from the date of the last incident.
- 5.8 This deadline can be extended at the discretion of the Receiving Officer, but only in exceptional circumstances in accordance with the principles outlined at Section 3.3. For example, such circumstances could include medical reasons that prevented the Complainant from bringing the complaint earlier.

6. Preliminary assessment of complaint

- 6.1 The Receiving Officer will conduct a preliminary assessment of the complaint within thirty (30) days of receipt. The preliminary assessment should be conducted in a fair and neutral manner, without preconceptions about the veracity of the allegations. The purpose of a preliminary assessment is to determine whether an investigation into the complaint should be conducted. As such, and strictly for the purposes of conducting a preliminary assessment, the allegations will be assumed to be true; and the complaint will be rejected only if one or more of the following factors apply:
 - (a) The allegations, on their face, do not appear to have a connection to an offence(s) enumerated under the Constitution or any Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-laws.
 - (b) The matter to which the complaint pertains is being, or has already been, sufficiently dealt with under an ongoing or completed process under this Regulation, under “PSAC Member Code of Conduct and Anti-Harassment Policy for Union Events” or by way of alternative dispute resolution.
 - (c) It is plain and obvious that the complaint is frivolous, trivial, vexatious, or made in bad faith.
 - (d) The complaint is out of time, as per sections 5.7 and 5.8 of this Regulation.
- 6.2 Within thirty (30) days of receipt of the complaint, the Receiving Officer will inform the Complainant(s), in writing, as to whether their complaint has been rejected as a result of any of the factors enumerated under section 6.1, or whether their complaint will proceed to the investigation stage. The Receiving Officer will ensure to keep a record of this decision for their records.
- 6.3 If the complaint will proceed to an investigation, the Receiving Officer must also

notify the Respondent of the complaint at this time and provide the Respondent with a copy of the complaint (as defined under section 5.3).

- 6.4 Where a complaint is rejected following the preliminary assessment, the Complainant cannot submit new complaints pertaining to substantially the same matter.
- 6.5 Where a complaint is rejected at the preliminary assessment stage, other forms of restorative alternative dispute resolution may be encouraged.

7. Assignment of Technical Advisor and/or Subject Matter Expert

- 7.1 The Receiving Officer may assign a Technical Advisor to provide confidential support, advice and guidance concerning procedural matters to the Investigation Committee.
- 7.2 The Receiving Officer may also assign a subject matter expert with other specialized expertise to provide confidential guidance to an Investigation Committee if necessary.

8. Interim Measures

- 8.1 The Receiving Officer will determine if interim measures are required to be taken while a complaint is being investigated or while it is being addressed through mediation or any other form of alternative dispute resolution. Interim measures are not intended to be punitive, nor indicative of the outcome of the complaint. They shall not be taken in a biased or retaliatory manner.
- 8.2 Interim measures may be utilized for the following purposes:
 - (a) To guard against irreparable harm;
 - (b) To address the union's obligations, including its legal obligations; and/or
 - (c) To protect a party or parties against potential harassment and/or discrimination.

9. Investigation Rosters

Roster of Internal Investigators

- 9.1 The National Board of Directors will identify and appoint current and retired members to serve as Investigators under this Regulation. They will be named to the PSAC Roster of Internal Investigators. In its appointment of members to this Roster, the Board will ensure there is regional representation, representation

from each Component, representation from DCLs, and retired members. The Board will also ensure that this Roster includes adequate representation of individuals of diverse identities (including linguistic identity and identity on the grounds of sex, gender, gender identity, sexual orientation, race, indigeneity, disability and age).

- 9.2 Members on the PSAC Roster of Internal Investigators (as well as Receiving Officers) will receive PSAC training on: the Regulation 19 process, procedural fairness and confidentiality requirements, trauma-informed principles, unconscious bias, anti-racism, and principles applicable to the assessment/investigation of sexual harassment and other human rights related complaints. In addition to the aforementioned topics, Internal Investigators will also receive training on the conduct of investigations and report writing.
 - 9.2.1 Members appointed to the Roster will not be assigned to conduct any investigations until they have received the training.
 - 9.2.2 Refresher training on the above topics will be provided to members of the PSAC Roster of Internal Investigators and Receiving Officers periodically.
- 9.3 The Standing Discipline Committee of the National Board of Directors will review the PSAC Roster of Internal Investigators periodically and ensure it is updated by the Board as required. It will also monitor to ensure that members on this Roster are receiving the training described above and will remove members as necessary.

Roster of External Investigators

- 9.4 The National Board of Directors, upon recommendation of the Standing Discipline Committee, will appoint external investigators comprised of non-PSAC members to be named to the PSAC Roster of External Investigators. In its appointment of members to this Roster, the Board will ensure there is regional representation, as well as representation of diverse identities (including linguistic identity and identity on the grounds of sex, gender, gender identity, sexual orientation, race, indigeneity, disability and age).
- 9.5 In order to be named to the PSAC Roster of External Investigators, the individual must have expertise and experience in the conduct of investigations, procedural fairness requirements and trauma-informed principles.
- 9.6 The Standing Discipline Committee of the National Board of Directors will review the PSAC Roster of External Investigators periodically and ensure it is updated by the Board as necessary.

10. Establishment of Investigation Committees

- 10.1 If a complaint is not rejected following the preliminary assessment conducted pursuant to Section 6, the Receiving Officer will establish an Investigation Committee to investigate the complaint.
- 10.2 The Receiving Officer is generally expected to assign investigators named on the PSAC Roster of Internal Investigators to participate on an Investigation Committee. However, if one or more of the following circumstances apply, an investigator named on the PSAC Roster of External Investigators may be appointed:
- (a) The complaint relates to allegations that are complex, systemic, and/or highly severe in nature;
 - (b) The complaint requires specialized expertise that the Internal Roster does not have;
 - (c) Investigators on the Internal Roster do not have the sufficient availability to conduct the investigation in a timely manner;
 - (d) There is insufficient equity-based representation available among those on the Internal Roster who are available to conduct the investigation;
 - (e) The parties to the complaint involve both PSAC members and PSAC staff, as per Section 1.5 of this Regulation;
 - (f) Where appointing an investigator from the Internal Roster presents a real or perceived conflict of interest;
 - (g) For any other reason which the Receiving Officer determines that an internal investigator would not be appropriate given considerations of procedural fairness.
- 10.3 If the complaint is being investigated by individuals listed on the PSAC Roster of Internal Investigators, the Investigation Committee will be composed of three (3) investigators.
- 10.3.1 If the complaint is being investigated by individuals listed on the PSAC Roster of External Investigators, one (1) to three (3) investigators may be assigned to investigate the complaint. In addition, a Technical Advisor will be assigned to provide information that the External Investigator(s) may require about PSAC's procedures.
- 10.3.2 Where an Investigation Committee consists of one (1) investigator, that person will be considered the Chair of the Committee. Where an Investigation Committee consists of more than one (1) investigator, the Receiving Officer will name one person to be the Chair of the Committee.
- 10.3.3 In assigning Investigation Committee members, the Receiving Officer will:

- (a) ensure that no member of the Committee was involved in the matter to which the complaint relates, nor has any conflict of interest or perceived conflict of interest;
 - (b) where a complaint relates to allegations of discrimination or harassment on a prohibited ground(s) of discrimination, make best efforts to ensure that at least one of the Committee members identifies with the same characteristic(s); and
 - (c) make best efforts to ensure the investigator(s) assigned are not from the same Component or DCL as the parties.
- 10.4 The cost of both internal and external investigations will be covered by the body on which the appropriate Receiving Officer sits, and in certain circumstances may be charged back to the local.

11. Investigation Process

- 11.1 Upon establishing an Investigation Committee to investigate a complaint, the Receiving Officer will:
- (a) advise the Complainant(s) and Respondent(s) that the complaint(s) is being investigated and provide the names of the Investigation Committee members;
 - (b) provide the Committee with a written mandate letter, defining the scope of their investigation and timeframe for conducting their work. Should the scope and/or timeframe of the Investigation Committee require amendment, the Chair of the Investigation Committee shall communicate with the Receiving Officer to secure a revised mandate in writing. (In such circumstances, if the revised mandate of the Investigation Committee requires the Investigation Committee to investigate additional charges or allegations being levied against the Respondent, the Receiving Officer will ensure to inform the Respondent, in writing, of any such further charges/allegations that the Investigation Committee is tasked with investigating.)
- 11.2 Complaints that relate to substantially the same matter or event(s) may be investigated as a group by the same Investigation Committee.
- 11.3 The Investigation Committee will conduct interviews with the Complainant(s), Respondent(s), and relevant witnesses. The Committee will make the ultimate determination as to which witnesses are relevant and should be interviewed.

- 11.4 The Investigation Committee will take notes during their interviews with Parties and witnesses. All parties and witnesses will be provided with the opportunity to review the Committee's notes to confirm the accuracy of the notes taken about their statements.
- 11.5 The Investigation Committee will seek to obtain what it determines to be the relevant documentation and/or other relevant evidence from Complainant(s), Respondent(s), and relevant witnesses.
- 11.6 The Investigation Committee will ensure that the Parties are provided with any relevant evidence and allegations that may be contrary to their position and given the opportunity to respond to it.
- 11.7 Investigation Committees are to make every reasonable effort to meet any human rights related accommodation needs raised by Parties and witnesses during the investigation process, up until the point of undue hardship, while ensuring that procedural fairness is met and that the investigation is able to proceed in a timely manner.
- 11.8 If the Complainant is continuously not responsive to requests and communications of the Investigation Committee, fails to attend scheduled interview(s), and/or fails to provide requested documents/evidence in a timely manner, without sufficient cause, the Complaint may be considered withdrawn and the process will go no further.
- 11.9 If the Respondent is not responsive to requests and communications of the Investigation Committee, fails to attend scheduled interview(s), and/or fails to provide requested documents/evidence in a timely manner, without sufficient cause, the Investigation Committee may proceed with the investigation and draw a negative inference against the Respondent, which may result in adverse findings of fact and/or recommendations of disciplinary measures against the Respondent.
- 11.10 When meeting or corresponding with the Investigation Committee, the Complainant, Respondent, and witnesses have a right to a support person. The role of the support person is to provide, for example, moral, psychological, and/or health support to the individual they are accompanying. They are not entitled to respond to questions on the individual's behalf or interfere with the investigation in any way. Support persons are also bound by the same requirements of confidentiality that apply to the Parties and witnesses as outlined in Section 12.
 - 11.10.1 For complaints pertaining to allegations of sexual assault and/or sexual harassment, the Complainant, Respondent, and witnesses have a right to an additional support person when meeting with the Investigation Committee. For example, they may bring both a social worker and a friend/family member. Both support persons are bound by the same requirements of confidentiality that apply

to the Parties and witnesses in Section 12.

- 11.11 In conducting an investigation, the Investigation Committee may implement additional processes that go beyond the minimum requirements set forth in this Regulation, as they deem appropriate in the circumstances, in order to properly investigate the complaint.

12. Confidentiality

- 12.1 Out of respect for all of the individuals involved and to maintain the integrity of the investigation and disciplinary process, it is essential that the Complainant, Respondent, witnesses, Receiving Officer, Validating Body, and anyone else involved maintain confidentiality during the course of the investigation and disciplinary process, with respect to the details of the complaint, the investigation/disciplinary process, and any information obtained through their participation in the process.
- 12.2 If a complainant, respondent, witness or anyone else involved in the investigation of a complaint believes that confidentiality has been breached, they should report it to the Investigation Committee (or to the Receiving Officer if an Investigation Committee has not yet been established). The Committee should then report this allegation to the Receiving Officer, who may choose to expand the Investigation Committee's mandate to include this allegation.
- 12.3 If it is determined that a party or witness has breached confidentiality during the investigation and disciplinary process, they may be subject to discipline.
- 12.4 Confidentiality obligations do not prevent an individual participating in an investigation/disciplinary process from accessing counselling or other health support services.

13. Reprisal and Retaliation

- 13.1 Individuals who bring a complaint in good faith under this Regulation or otherwise participate/cooperate in the investigation of a complaint under this Regulation have the right to be free from reprisal. This includes Receiving Officers and other union officers involved in the disciplinary process. If an individual believes they have experienced reprisal for bringing a complaint or participating in this process, they may report this to the Investigation Committee (or Receiving Officer if an Investigation Committee has not yet been established). The Committee should then report this allegation to the Receiving Officer, who may choose to expand the Investigation Committee's mandate to include this allegation.
- 13.2 Reprisal refers to any action, threat or form of intimidation intended as retaliation against a complainant, participant, union officer, or investigator because they:

- (a) Made a complaint under this Regulation;
- (b) Participated/cooperated in an investigation of a complaint under this Regulation; or
- (c) Otherwise attempted to enforce a right under this Regulation or fulfill their role under this Regulation.

13.3 Individuals who are found to have engaged in any form of reprisal may be subject to discipline.

14. Report of the Investigation Committee

14.1 The Final Report of the Investigation Committee will consist of two parts:

Part 1: Summary of Complaint, Evidence, and Findings

- (a) A summary of the complaint (background and allegations);
- (b) The scope and mandate of the investigation;
- (c) A review of the investigation process undertaken, including confirmation as to whether the Complainant and Respondent were offered the opportunity to be interviewed, a list of any documents reviewed, witnesses interviewed, and/or other steps taken;
- (d) An overview of the facts and findings of the Investigation Committee, with respect to each of the allegations contained in the complaint;
- (e) Findings with respect to whether the Respondent(s) has violated the provision(s) of Section 25, Sub-section 6 of the PSAC Constitution, or provision(s) of a Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-law, identified in the complaint.
- (f) If a violation(s) has been found, an overview of the impact(s) of the Respondent(s) actions on the Complainant(s).

Part 2: Recommendations

If the Investigation Committee finds that any violation(s) have occurred, the Report will include recommendation(s) regarding the disciplinary and/or remedial action to be imposed, with due consideration given to the nature and severity of the violation, as well as the impact(s) experienced by the Complainant.

The disciplinary and/or remedial action(s) recommended could include, but are not limited to:

- i. A directive to cease the behaviour or actions;

- ii. A directive to undertake remedial actions between the Parties;
- iii. Education or training;
- iv. Informal conflict resolution;
- v. Censure;
- vi. Removal from union office;
- vii. Suspension of membership;
- viii. Expulsion from membership; and
- ix. Other restorative and/or disciplinary actions, as deemed appropriate in the circumstances.

14.2 The Investigation Committee will also prepare a brief Executive Summary of their Report. This Executive Summary will include: i) a list of the main allegations in the complaint; ii) the Committee's findings in relation to each allegation, including whether the Respondent has violated the provision(s) of Section 25, Sub-section 6 of the PSAC Constitution, or provision(s) of a Regional, Component, Local/Branch, DCL, Regional Committee or Area Council By-law, identified in the complaint; and iii) the Recommendations, if any.

14.3 The Investigation Committee will provide their Final Report and Executive Summary to the Receiving Officer. The Receiving Officer must review the Final Report and Executive Summary to ensure they include everything listed in sections 14.1 and 14.2. The Receiving Officer will send the Final Report and/or Executive Summary back to the Investigation Committee to add any missing parts, where that is the case.

14.4 The Receiving Officer will provide the Executive Summary of the Report to the Complainant and Respondent as soon as possible.

14.4.1 The Investigation Committee should retain their report, notes, and all documentation retained in the course of the investigation for at least five (5) years following the conclusion of the investigation process.

14.5 The Final Report and Executive Summary shall remain confidential and shall only be accessed by those persons and bodies outlined in this Regulation as being authorized to receive them.

15. Submission of Report to Validating Body

15.1 The Investigation Committee's Final Report and Executive Summary will be submitted to the appropriate Validating Body, as identified in Appendix A to this Regulation.

15.2 The Validating Body will vote (by simple majority) on whether to receive the Final Report. The only rationale for not receiving the Report is if it does not contain the content required at Section 14.1. If the Validating Body determines that the

Report cannot be received, it will send it back to the Investigation Committee to require any missing parts to be included. Once the Report is received by the Validating Body, the Validating Body will accept the factual findings as determined by the Investigation Committee and as contained in the Final Report. The Validating Body cannot amend the factual findings contained in the Final Report.

- 15.3 If the Final Report finds that a violation(s) of the Constitution and/or a by-law has occurred and makes Recommendations, the Validating Body will conduct a vote to decide whether to accept the Recommendations. Each recommendation must be accepted by a 2/3 majority.
- (a) The Validating Body may vote to change, set aside, add to, or describe in greater detail any Recommendations contained in the Report. It may choose to amend Recommendations made by the Investigation Committee based on the following factors:
 - i. the recommended actions are disproportionate to the factual findings (i.e., too severe or not severe enough);
 - ii. additional measures are required to address the factual findings;
 - iii. the Respondent's conduct relating to the investigation/disciplinary process warrants that further measures be taken;
 - iv. the Validating Body determine that the Respondent's lack of acknowledgment of the misconduct should be considered; and/or
 - v. any other significant and compelling factor(s) that the Validating Body determines should be taken into account.
 - (b) The Validating Body's final decision pertaining to the Recommendations and any discipline to be imposed on the member will be recorded in the meeting Minutes. If the meeting Minutes are shared with anyone outside of the executive of the Validating Body and the National Board of Directors, the names of the Parties will be redacted, unless disclosure is required by law or where circumstances warrant, having regard for the seriousness of the offence, the discipline ordered by the Board, and any applicable privacy legislation.
 - (c) If the Validating Body's decides that the appropriate discipline to be imposed on a member includes suspension and/or expulsion from membership, the Validating Body must submit a discipline motion to the National Board of Directors.
- 15.4 In circumstances where the Investigation Committee has found that no violation has occurred, the Validating Body may still consider whether certain non-disciplinary restorative or preventative actions could be beneficial, as described at Section 22 of this Regulation.
- 15.5 Neither the Complainant(s) nor Respondent(s) shall be permitted to participate in

the vote or in discussions relating to the complaint, including in circumstances where either of them is a member of the Validating Body. For further clarity, Parties shall not be present for the Validating Body's discussions relating to the complaint, or for the vote on the discipline to be imposed. Likewise, where any other member of the Validating Body is in a conflict of interest in relation to the complaint, that member shall recuse themselves and not be present for the discussions and voting relating to the complaint.

16. Submission of Report to National Board of Directors

- 16.1 Where a Validating Body has determined that the appropriate discipline of a member includes suspension and/or expulsion as per Section 15.3(c), the National Board of Directors will consider and determine the matter.
- 16.2 Prior to the National Board of Directors determining the matter, the Receiving Officer (with assistance from a Technical Advisor where necessary) will assemble the following information and do the following:
- i) Gather documentary proof confirming that the Respondent received a copy of the complaint, as required under Section 6.3.
 - ii) Verify that the Investigation Report confirms whether the Complainant(s) and Respondent(s) were offered an opportunity to be interviewed. (If the Report does not contain this confirmation, the Technical Advisor will ask the Investigation Committee to confirm in writing whether this was done).
 - iii) Compile the following package of materials and send it to the Standing Discipline Committee for their review: a) The proof and confirmation referred to at (i) and (ii) above; b) the Investigation Committee's Final Report and Executive Summary; c) the Minutes of the Validating Body's meeting where the matter was put and voted on, including record of the 2/3 acceptance; and d) the Validating Body's discipline motion to the National Board of Directors.
- 16.2.1 The Board will vote (by simple majority) on whether to receive the Final Report. The only rationale for not receiving the Report is if it does not contain the content required at Section 14.1. If the Board determines that the Report cannot be received, it will send it back to the Investigation Committee to require any missing parts to be included.
- 16.2.2 The Board will accept the findings contained in the Final Report. However, the Board will conduct a vote to decide whether to accept the Validating Body's Recommendations. It may, by way of vote, decide to accept, reject, amend, set aside, or add to the Recommendations of the Validating Body. Each

recommendation must be accepted by a 2/3 majority.

- (a) The Board may choose to amend Recommendations made by the Validating Body based on the following factors:
 - i. the recommended actions are disproportionate to the factual findings (i.e., too severe or not severe enough);
 - ii. additional measures are required to address the factual findings;
 - iii. the Respondent's conduct relating to the investigation/disciplinary process warrants that further measures be taken;
 - iv. they determine that the Respondent's lack of acknowledgment of the misconduct should be considered; and/or
 - v. any other significant and compelling factor(s) that the Validating Body determines should be taken into account.

16.2.3 The Board's final decision pertaining to the Recommendations and any discipline to be imposed on the member will be recorded in the meeting Minutes. If the Board's Minutes are shared with anyone outside of the Board, the names of the Parties will be redacted, unless disclosure is required by law or where circumstances warrant, having regard for the seriousness of the offence, the discipline ordered by the Board, and any applicable privacy legislation.

16.2.4 Neither the Complainant(s) nor Respondent(s) shall be permitted to participate in the vote of the National Board of Directors, nor in the National Board of Directors' discussions relating to the complaint. For further clarity, Parties shall not be present for the Board of Directors discussions relating to the complaint, or the Board of Directors vote on the discipline imposed. Likewise, where any other member of the National Board of Directors is in a conflict of interest in relation to the complaint, that member shall recuse themselves and not be present for the discussions and voting relating to the complaint.

17. Notification of Parties

17.1 The Receiving Officer will inform the Parties in writing, as soon as possible in the circumstances, of any decisions regarding disciplinary measures that were arrived at by the Validating Body and/or National Board of Directors pursuant to Sections 15 and 16.

17.2 If the discipline decided on involves removal from office, suspension of membership and/or expulsion from membership, the notification to both Parties must include information about the Respondent(s) right to appeal the outcome, as well as the process for doing so.

18. Actioning Disciplinary Measures

- 18.1 The Receiving Officer is responsible for doing the follow-ups necessary to ensure that all approved disciplinary measures are actioned and implemented as quickly as possible. The Receiving Officer will ensure all measures have been actioned prior to closing the file.

19. Appeal Process

- 19.1 Respondents may appeal an outcome that results in the imposition of one or more of the following forms of discipline: removal from office, suspension of membership, expulsion from membership.
- 19.2 The two parties involved in the appeal process will be the Respondent and the body that made the final decision about the discipline—in other words, either the Validating Body or the National Board of Directors. Complainants will not have standing in the Appeal Process but will be notified of an appeal and may be asked, as appropriate in the circumstances, to participate in the appeal hearing as a witness to speak to issues relating to the process that was employed during the investigation/disciplinary process.
- 19.3 An appeal may only be made on the basis of one or both of the following grounds:
- (a) One or more requirements of this Regulation were not followed and the failure to do so reasonably could have had a substantial impact on the outcome/discipline imposed;
 - (b) There were one or more serious procedural errors in the investigation that reasonably could have had a substantial impact on the outcome/discipline imposed.
- 19.4 The Respondent must notify the Receiving Officer, in writing, of their Intent to Appeal within thirty (30) days of being notified of the discipline decided upon. The Receiving Officer will provide a copy of the Intent to Appeal to the Validating Body. In cases where the discipline decided upon involved suspension and/or expulsion of membership it will also provide a copy to the PSAC National President, who will inform the National Board of Directors.
- 19.5 The Intent to Appeal must include: identification of the ground enumerated in section 19.3 upon which the appeal is being brought, specific details explaining why the Respondent believes this ground has been met, and the outcome being sought by the Respondent.

- 19.6 The Receiving Officer will notify the Complainant that an Intent to Appeal has been received and that the appeal process will be undertaken.

PSAC Roster of Appeal Tribunal Members

- 19.7 The National Board of Directors will, upon recommendation of the Standing Discipline Committee, approve a “PSAC Roster of Appeal Tribunal Members” consisting of individuals that may be called upon to hear appeals under this Regulation. These individuals will consist of individuals with significant experience in senior leadership roles in the labour movement, including, for example, former national officers of PSAC or former or current national officers/leaders of another Canadian Labour Congress affiliated union, a Federation of Labour or the Canadian Labour Congress.
- 19.7.1 Persons named to the PSAC Roster of Appeal Tribunal Members may include current and retired members, as well as current and former members of other unions affiliated to the Canadian Labour Congress.
- 19.7.2 The PSAC Roster of Appeal Tribunal Members must be regionally representative as well representative of individuals of diverse identities (including linguistic identity and identity on the grounds of sex, gender, gender identity, sexual orientation, race, indigeneity, disability and age).

Establishment of Appeal Tribunal

- 19.8 An Appeal Tribunal will be established to hear the appeal.
- 19.8.1 The Appeal Tribunal will consist of one (1) person selected from the Roster of Appeal Tribunal Members and mutually agreed to by both parties. This person shall serve as the Chair of the Appeal Tribunal. If the parties cannot agree on a Chair within thirty (30) days from the time that the Respondent’s Intent to Appeal was received, then the Chair will be appointed by an appropriate labour organization such as a Canadian Labour Congress affiliated union, a Federation of Labour or the Canadian Labour Congress, as determined by the Standing Discipline Committee of the National Board of Directors. In such circumstances, the labour organization will select the Chair from among the individuals on the Roster of Appeal Tribunal Members.
- 19.9 Persons appointed to an Appeal Tribunal must not have any conflict of interest in the outcome of the appeal, nor have been involved in the investigation process or the matter to which the complaint relates. They must also have the availability to preside over the appeal process in a timely manner.
- 19.10 Upon its establishment, the Appeal Tribunal will be provided with the Complaint,

the Investigation Committee's Final Report and Executive Summary of the Report, the discipline that the Validating Body and/or National Board of Directors decided on, the Respondent's Intent to Appeal, and the contact information of the parties to the appeal (or their representative).

Appeal Tribunal Hearing

- 19.11 The Appeal Tribunal process is intended to be informal and accessible to the Parties. It is not a re-hearing of the evidence that was presented to the Investigation Committee.
- 19.12 The role of the Appeal Tribunal is to determine whether any of the grounds stipulated under Section 19.3 are met. The role of the Appeal Tribunal is not to re-hear or re-investigate the complaint, nor to interfere with the factual findings that were made by the Investigation Committee.
- 19.13 The Appeal Tribunal will determine its own procedure, as long as the Parties are given a full opportunity to present their case and make submissions on the issues in the appeal, and as long as the process is conducted in a timely manner. The Appeal Tribunal may decide to either hear the appeal by way of written submissions of the Parties, or to hold a hearing (either virtually or in-person). The Appeal Tribunal will advise the Parties of the process that will be followed.
- 19.14 The Respondent has the right to be represented during the appeal process if they wish, at their own cost.
- 19.15 The Respondent also has the right to a support person. The role of the support person is to provide, for example, moral, psychological, and/or health support to the individual they are accompanying. They are not entitled to respond to questions on the individual's behalf or interfere with the investigation in any way. Support persons are also bound by the same requirements of confidentiality that apply to the Parties and witnesses as outlined in Section 12.
- 19.16 The highest elected official of the body who made the final decision on discipline (i.e., the Validating Body or the National Board of Directors) will assign someone to represent the body in the appeal hearing.
- 19.17 If the Respondent is not responsive to requests and communications of the Appeal Tribunal, fails to attend scheduled meetings/calls/hearing dates, and/or fails to provide requested materials in a timely manner, without sufficient cause, the Chair may consider the Respondent's appeal to be withdrawn; and the process will go no further.
- 19.18 If the representative of the Body who made the disciplinary decision is not responsive to requests and communications of the Appeal Tribunal, fails to attend scheduled meetings/calls/hearing dates, and/or fails to provide requested

materials in a timely manner, without sufficient cause, the Chair may proceed with the hearing in the absence of the Body's representative, and in the absence of the evidence that the representative would have presented.

- 19.19 If the Appeal Tribunal finds that no grounds under Section 19.3 have been met, no further action will be taken and the decision that was made by the Validating Body and/or National Board of Directors will stand and will be considered final and binding.
- 19.20 If the Appeal Tribunal finds that a ground(s) stipulated under Section 19.3 has been met, the Appeal Tribunal may:
- a) In circumstances where the error was committed by the Investigation Committee, either: i) return the complaint to the Investigation Committee to remedy the error(s) identified under Section 19.3 OR ii) in rare cases where it is not possible to remedy the violation(s) without conducting a whole new investigation, mandate the Receiving Officer to establish a new Investigation Committee to re-investigate the complaint.
 - b) In circumstances where the error(s) was committed by the Receiving Officer, Validating Body, or National Board of Directors, return the complaint to that entity to remedy the error identified under Section 19.3.
- 19.21 If the Appeal Tribunal orders one of the remedies articulated in Section 19.20, the investigation or disciplinary process will continue forward from that point in the process until completion. (For example, if the complaint is sent back to the Investigation Committee, the Committee's revised report will then be sent to the Validating Body and the remainder of the process will be completed in the normal course).
- 19.22 The Appeal Tribunal will send a report outlining their decision and reasons for the decision to the Receiving Officer, the Respondent, the Body participating in the appeal process, and the Complainant. Where possible, the Appeal Tribunal will provide the report within ninety (90) days of completion of the appeal process/hearing. However, this timeline may be extended if there are concurrent proceedings or other compelling reasons for doing so.
- 19.23 The decision of the Appeal Tribunal is final and binding. No appeal of an appeal decision, including any corrective actions ordered by the Appeal Tribunal, is possible under this Regulation and the PSAC Constitution.
- 19.24 Reasonable costs of the appeal hearing will be paid for by PSAC. (This includes any reasonable costs associated with retaining the Appeal Tribunal Chair and hosting the hearing). However, Respondents and the Body participating in the appeal process are responsible for covering their own costs associated with any representative and/or support person.

20. Member Reinstatement

- 20.1 In cases where a member has been suspended or removed from office in multiple separate cases, the periods of their discipline shall be served consecutively.
- 20.2 A member must complete the entirety of the discipline levied against them before they may be considered for reinstatement. For greater clarity, a member who has been suspended and fined must serve their suspension and pay their fine; a member who has received multiple consecutive disciplinary decisions must serve them all.
- 20.3 Following the completion of their discipline, a member must make written application to the PSAC body that levied the discipline to request their reinstatement. Such requests will be reviewed to ensure the member completed the entirety of their discipline, including the payment of any fine. A written response will be issued by the appropriate PSAC body, including reason(s) for any denial of the request.

21. Strike Breaker

- 21.1 As required by Section 25, Sub-Section (8) of the PSAC Constitution, the process to investigate allegations of strike breaking must be initiated within six months of the conclusion of the ratification vote. The process does not have to be concluded within this six-month window, but it must have begun.
- 21.2 Notwithstanding any previous provisions of this Regulation, in the case of an alleged violation of Section 25, Sub-Section (6)(n) of the PSAC Constitution, the following procedures may be utilized:
 - a) At the Local level:
 - i) The alleged violation of Section 25, Sub-Section (6) (n) will be signed by a Local member and submitted to the Local Discipline Committee or Local Executive for study and recommendation to a general membership meeting.
 - ii) The member alleged to have violated Section 25, Sub-Section (6) (n) will be notified in writing, notified of the general membership meeting and given an opportunity to make representation at the Local meeting.
 - iii) The decision of the general membership meeting will be forwarded to the Component President in writing together with all relevant documentation.

- iv) The Component President, after satisfying themselves that the proper procedure has been followed, shall submit the matter to the National Board of Directors for decision.

b) At the Component national or regional level:

- i) upon receipt of an alleged violation of Section 25, Sub-Section (6) (n) signed by a Local member, an assigned Component National Officer shall notify the member charged, conduct an investigation providing an opportunity for the member charged to make representation and prepare a written report for the Component President.
- ii) The Component President shall submit the written report to an executive body of the Component for its review and recommendation.
- iii) The Component President, after satisfying themselves that the proper procedure has been followed shall submit the matter to the National Board of Directors for decision.

21.3 Neither the Local Executive/Local Discipline Committee nor the Component National/Regional Officer are considered an investigation committee as described in Regulation 19. The body conducting the investigation of strike breaking allegations must follow the principles outlined in Regulation 19, including:

- a) The member is to be informed in writing of the charge(s) levied against them, the process being employed to investigate the charge(s), and provided the opportunity to defend themselves, including the provision of evidence in support of their defence.
- b) All charge(s) against a member must be signed. Anonymous complaints are not acceptable.
- c) The investigation body is to make all reasonable efforts to contact the member(s) charged, inform them of the charges against them, and provide the opportunity to make representations in response to these charges.
- d) The investigation body will include the evidence of outreach made to the charged member(s) and response(s) received in their report. As these reports form a historical record of the investigation process employed, investigation reports shall be well documented, containing the necessary information to support any disciplinary recommendations or why discipline was not recommended, in each case.
- e) A member's failure to participate in the investigation process does not

delay nor terminate the investigation; however, reasonable requests for an extension or accommodation can be granted.

- 21.4 In every case where it is alleged that a member crossed a picket line, the investigative body has a responsibility to determine whether the member actually did violate the Constitution and determine whether there are any extenuating circumstances that would tilt the balance away from discipline as a punitive measure and towards discipline as an attempt to influence future behavior.
- 21.5 The collection of any fines must be done in compliance with the PSAC Constitution and our union principles. A member remains disciplined and ineligible for reinstatement to good standing until payment of their fine has been completed

22. Moving Beyond Conflict

- 22.1 Should conflict remain between the Parties, the Receiving Officer, Validating Body and/or National Board of Directors may consider the use of conflict resolution resources and/or other restorative measures as outlined in Section 4.
- 22.2 It is recognized that the impacts of the disciplinary process extend beyond the parties to a complaint. Therefore, tools such as education/training, facilitated discussions or other forms of restorative action may be used to assist in rebuilding relationships, trust and communication following a disciplinary incident. The costs associated with such restorative action shall be borne by the appropriate body (Local, Component, Regional or National).
- 22.3 Education/training may also be used as a preventative measure to assist members in conducting difficult conversations, mediating conflict, and peacebuilding

Appendix A:
Chart of Union Bodies in Disciplinary Process

The below chart identifies the appropriate Receiving Officer and Validating Body for complaints that arise outside of union events. While this chart applies in most instances, there are exceptions. Please see the accompanying explanatory notes following the chart for further details.

IF A COMPLAINT IS AGAINST:	THE RECEIVING OFFICER IS: <i>(unless there is a conflict of interest)</i>	THE VALIDATING BODY IS:
Local/Branch Member	Component Regional Vice-President or equivalent	Component National Executive
Local/Branch President	Component Regional Vice-President or equivalent	Component National Executive
Component National Officers	Component President	Component National Executive
Component President	PSAC National President	Component National Executive (or NBoD, as required)
DCL Member	DCL Local President	Regional Council
DCL President	Regional Executive Vice-President	Regional Council
Regional Council Members	Regional Executive Vice-President	Regional Council
Regional Committees	Regional Executive Vice-President	Regional Council
Area Councils	Regional Executive Vice-President	Regional Council
PSAC Regional Executive Vice-Presidents	PSAC National President	NBoD
PSAC National Executive Vice-President and Alternate	PSAC National President	NBoD
PSAC National President	An individual selected by the PSAC National Executive Vice-President, from among the individuals listed on the PSAC Roster of Appeal Tribunal Members	AEC <i>(However, only the NBoD can remove the National President from office)</i>

Explanatory Notes:

- As indicated at Section 5.2 of the Regulation, in situations where there is a compelling reason for doing so, including to protect procedural fairness, disciplinary action may be initiated at a higher level than the level indicated in the above chart. In such cases, the PSAC National President shall provide direction.
- **“Local/Branch Member”** refers to all PSAC members who do not hold the following titles: Local/Branch President, Component National Officer, Component President, DCL Member, DCL President.
- **Conflicts of Interest:**
 - In situations where the Receiving Officer identified in the above chart is a party to the complaint, is named in the allegations, and/or has any other conflict of interest relating to the complaint, the next most senior elected official of the Local, DCL, Component, Region or National Executive must act as the Receiving Officer.
 - If a member of the Validating Body or National Board of Directors is a Complainant or Respondent to the complaint, or has any other conflict of interest in relation to the complaint, they will recuse themselves and not be present for any discussions or voting relating to the complaint.
- **Suspension and Expulsion:** While the Validating Body can vote on whether a member should be suspended and/or expelled, as per the procedure set out in Section 15 of this Regulation, only the National Board of Directors has the power to suspend and expel members.
- **Removal of PSAC National President from office:** The AEC does not have the power to remove the PSAC National President from office. The power to remove the PSAC National President from office rests solely with the National Board of Directors.
- **Incidents arising at PSAC Union Events:** As per Section 1.5 of the Regulation, Complaints regarding incidents that arise at PSAC Union Events will be handled as per the procedure set out in “PSAC Member Code of Conduct and Anti-Harassment Policy for Union Events”. If the complaint is not resolved through the procedures set out in Policy 23B, a complaint may be filed under this Regulation. In those instances, the highest elected official that presided over the Union Event will act as the Receiving Officer for such complaints, and the Receiving Officer’s executive will act as the Validating Body.