

# New York State Nurses Association

## Internal Disciplinary Complaints and Charges

This Policy is issued and adopted to effectuate Article III of the NYSNA Bylaws.

- I. Complaints to Initiate Charges Under Article III
  - A. Complaints may be initiated by any member in good standing who has cause to believe that a member has violated NYSNA bylaws or engaged in conduct detrimental or injurious to the Association or its purposes. Conduct detrimental or injurious to the Association or its purposes shall include, but not be limited to, conduct designed or intended to displace NYSNA as the bargaining representative of employees.
  - B. A complaint must be submitted in writing to the NYSNA President within thirty (30) calendar days from the date that the complainant knew or reasonably should have known of the alleged conduct forming the basis for the complaint.
  - C. A complaint must identify the charged member(s), specify the alleged conduct on which the complaint is based, and be signed by the complainant(s).
- II. Initial Review of Complaint, Determination on the Issuance of Charges
  - A. Within thirty (30) calendar days of the President's receipt of a complaint, the Executive Committee of the Board of Directors shall determine whether to issue charges thereon or whether to dismiss the complaint in whole or in part.
  - B. It is the responsibility of the complainant(s) to submit information, documents or evidence to the Executive Committee for its consideration within five (5) calendar days of the receipt of the complaint.
  - C. Should the Executive Committee determine to dismiss the complaint in whole or in part, the President shall notify the complainant(s) in writing of said dismissal. The complainant(s) may appeal from the decision of the Executive Committee to the Board of Directors by submitting a written request for appeal to the President within seven (7) calendar days from the date of the Executive Committee's decision. In the event such appeal is granted, the President shall issue and serve written charges, as provided below.
  - D. Should the Executive Committee determine to issue charges on a complaint, the President shall issue written charges which shall state, with sufficient specificity, the identities of the complainants and the charged members and the specific conduct on which the charges are based.
  - E. The President shall serve the written charges upon the charged member(s) and the complainant(s) by Registered U.S. Mail, Return Receipt Requested, or by

Certified U.S. Mail at the addresses on file with NYSNA. If delivery is refused by the addressee, the attempted delivery shall be deemed sufficient notice of the charges.

### III. Determination on Charges

- A. The Board of Directors or a Hearing Panel designated by the Board, shall conduct a full and fair hearing on the charges consistent with the Rules Governing the Conduct of Disciplinary Hearings Before the Board of Directors and federal labor law.
- B. At least fifteen (15) calendar days prior to the hearing, the President shall serve written notice of the hearing date, time and location upon the charged member(s) and the complainant(s) by Registered U.S. Mail, Return Receipt Requested, or by Certified U.S. Mail at the addresses on file with NYSNA. If delivery is refused by the addressee, such attempted delivery shall be deemed sufficient notice of the hearing.
- C. Failure of any interested party in any case to appear at the hearing at the time and place designated in the notice shall constitute a waiver of appearance and the hearing shall proceed regardless of the absence of such party.
  - 1. If the complainant(s) fails to appear at the hearing, the charges shall be dismissed. Additionally, failure of the complainant(s) to present evidence in support of the charges shall require dismissal of the charges. In either event, such dismissal shall constitute a final adjudication from which there can be no appeal, and after such dismissal the charged member(s) may not be retried on the same charges.
  - 2. If the charged member(s) are unable to be present at the hearing, they may present their case in writing by submission to the President at least seven (7) calendar days before the hearing.
- D. Complainant(s) and charged member(s) may be represented at the hearing by any NYSNA member in good standing. **No party shall be entitled to representation at the hearing by legal counsel.**

### IV. Appeal from Determination on Charges

- A. A determination on charges by Board of Directors shall be final and binding on all complainant(s) and charged member(s).
- B. Where the Board of Directors designates a Hearing Panel to make a determination on the charges, a complainant or charged member may appeal the Hearing Panel's determination to the Board of Directors. An appeal must be submitted in writing to the President within seven (7) calendar days after the Hearing Panel's issuance of determination.

- C. Upon receipt of a timely appeal to the Board of Directors, the President shall serve a copy of the appeal on all parties by Registered U.S. Mail, Return Receipt Requested or by Certified U.S. Mail at the addresses on file with NYSNA. If delivery is refused by the addressee, the attempted delivery shall be deemed sufficient notice of the appeal.
- D. Any party may, within seven (7) calendar days after delivery of the appeal, submit to the President a written statement in support of or in opposition to the appeal. Such timely received statements shall be provided to the Board of Directors for its consideration.
- E. The Board of Directors will determine any appeal within forty-five (45) calendar days from its submission to the President. Written notice of the determination shall be delivered to all parties.

#### V. Reinstatement

- A. A member expelled pursuant to a determination on charges may, six (6) months after expulsion, apply for reinstatement to membership. Application for reinstatement must be submitted to the President in writing.
- B. Within sixty (60) calendar days after submission of an application for reinstatement, the Board of Directors shall determine whether to reinstate an expelled member. Reinstatement shall require a two-thirds (2/3) vote and shall be within the Board's exclusive direction.

#### VI. General

- A. A document shall be considered "submitted" or "delivered" on the date deposited for delivery with the U.S. Postal Service, as evidenced by a postmark or, if submitted via commercial service, on the date deposited for delivery with such service as evidenced by a receipt or tracking record generated by such service. A document submitted via facsimile shall be considered "submitted" on the date faxed.
- B. Where any Board member is party to or involved in the conduct underlying a complaint, he/she shall be recused from the administration of and deliberation upon the complaint or resulting charges.
  - 1. Should the President be a party to or involved in a complaint, her/his duties under this Policy shall be performed by the Treasurer. Should the Treasurer also be a party to or involved in a complaint, the Board of Directors shall appoint a person to perform such duties.
  - 2. Should recusal under this provision preclude a quorum of the Executive Committee, the Board of Directors shall designate three members in good standing to perform the Executive Committee's duties together with the non-recused Executive Committee members.

- C. The Rules Governing the Conduct of Disciplinary Hearings Before the Board of Directors are incorporated into and made part of this Policy. In the event of any conflict between this Policy and the Rules Governing the Conduct of Disciplinary Hearings Before the Board of Directors, the Rules shall govern.
- D. The Board of Directors or the Hearing Panel may extend any of the time limitations stated in this Policy or in the Rules Governing the Conduct of Disciplinary Hearings Before the Board of Directors.
- E. The Board of Directors may, at any point and in its sole discretion, determine for good cause to hold in abeyance the processing of a complaint or charges.
- F. The Board may amend this Policy any time it deems appropriate to do so.