

# MEA Board of Reference

## Rules of Organization and Procedure

(By authority in the Board of Reference by Section 5 of Article XII of the MEA Constitution)

### Table of contents

Part 1.	Organization .....	1
Part 2.	Procedures .....	2
Part 3.	Declaratory opinions .....	3
Part 4.	Amendments and rescissions .....	4

### Part 1. Organization

- R 1.** *Meetings.* The chairperson of the Board shall call such sessions as are necessary for organizational purposes or to hear those appeals or other matters as may be filed. (See with respect to appeals, R 12, and with respect to declaratory opinions, R 24.)
- R 2.** *Quorum.* A majority of the Board shall constitute a quorum for the transaction of business, but a lesser number may adjourn to a future date. Action by such a majority of the Board shall be valid only if taken at a meeting called by the chairperson, including meetings conducted by way of a conference telephone call. No act shall be valid except by a majority vote (3) of the appointed judges of the Board.
- R 3.** *Place of meetings.* All meetings and hearings conducted by the Board shall ordinarily be held at MEA Headquarters, East Lansing, Michigan. However, the chairperson of the Board may, when the location of witnesses or exhibits makes it appear to be desirable, arrange for a meeting or hearing to be held in an alternative location.
- R 4.** *Officers.* The officers of the Board shall be a chairperson and vice chairperson. The chairperson and vice chairperson shall be elected by and from the appointed judges.
- R 5.** *Election of officers.* The election of officers of the Board shall be held at the first meeting of each even-numbered year.
- R 6.** *Duties of the chairperson.* The chairperson shall call all meetings of the Board as required by these rules and preside at all meetings and appellate hearings of the Board.
- R 7.** *Duties of the vice chairperson.* The vice chairperson shall have the power to perform the duties of the chairperson when the chairperson is absent or otherwise unable to act.
- R 8.** *Secretary.* The secretary of the Board shall be appointed by the executive director of MEA. The secretary shall not be a member of the Board nor have the power to vote.
- R 9.** *Duties of the secretary.* The secretary shall keep proper minutes of all meetings of the Board as a permanent record, shall obtain a biannual report of expenditures from the accounting department, shall provide notice to appropriate parties at the direction of the chairperson of the Board, shall attend to making an electronic or stenographic record of all hearings before the Board, shall receive all correspondence and matters directed to the Board and immediately notify the chairperson of the same, and have custody of all records of the Board.
- R 10.** *Business office.* The business office of the Board shall be at the Michigan Education Association Headquarters, 1216 Kendale Boulevard, P.O. Box 2573, East Lansing, Michigan 48826-2573.
- R 11.** *Business and organizational meeting.* The Board shall hold at least two (2) business meetings annually for conducting general business of the Board, including electing officers, reviewing and revising the Rules of Organization and Procedure, recommending revisions of the MEA Constitution and Bylaws provisions applicable to the Board of Reference and conducting all other general business of the Board. Said meetings will be held on the third Thursday during the months of October and May of each year.

## Part 2. Procedures

- R 12. *Notice of hearing.*** Upon the filing of charges or an appeal to the Board pursuant to Article IX of the MEA Bylaws, the secretary of the Board shall immediately notify the chairperson of the Board, and shall schedule a hearing to be held within fifty-five (55) days after the filing date. At least fifteen (15) days notice of the date, time and place of the hearing before the Board shall be given to the accused, the accuser, the MEA executive director and the presiding officer of any lower level hearing. Such notice shall be by certified mail, return receipt requested.

Preliminary motions (e.g., timelines, lack of standing, lack of jurisdiction, failure to state a claim, adjournment) by either party shall be submitted to the secretary of the Board at least five (5) days prior to the scheduled hearing date. At any time prior to hearing, a hearing officer, upon his/her own motion, may dismiss a charge in its entirety for such reasons as untimeliness, lack of standing, lack of jurisdiction, or failure to state a claim. In any such case, the party against whom the motion is granted shall have the right to appeal the ruling to the MEA Appellate Board of Reference according to the regular appeals process.

Unless otherwise directed by the hearing officer, the parties shall exchange witness and exhibit lists at least ten (10) days prior to the scheduled hearing date, with a copy to the secretary of the MEA Board of Reference.

- R 13. *Manner of communication.*** Except for the filing of charges and appeals which shall be limited to U.S. mail or hand delivery (MEA Bylaws IX. C., D. and N.), all communications and document transmittals required or permitted by these rules of procedure may be accomplished by facsimile or electronic transmission as well as U.S. mail and hand delivery.

- R 14. *Time limit extensions.*** The hearing officer assigned to hear the charges may, at the request of either party, the executive director or on the hearing officer's own motion, extend the time limits for the hearing not to exceed sixty (60) days.

- R 15. *Hearings.*** Pursuant to Article IX of the MEA Bylaws, any trial held before the Board of Reference shall be conducted as a new trial with the accuser bearing the burden of proof. The accuser, if he/she so desires, may rely upon a written record which has been made by a lower trial body. The members of the Board shall rely solely upon matters made a part of the record at the hearing in arriving at their decisions, except the Board may take notice of general facts.

The Board of Reference shall have exclusive right to record Board of Reference hearings and shall maintain the official trial record. All other recording equipment is prohibited.

The Board of Reference may, within the established guidelines, call an organizational meeting for the purpose of specifying and clarifying procedures.

- R 16. *Non-party request to participate.*** Persons who are not a party to a board of reference proceeding, but who believe they have a direct interest in the outcome of the proceeding, may request to participate in the proceeding by making such a request in writing at least five days prior to any scheduled hearing. The request shall be directed to the secretary of the board of reference and shall explain the nature of their interest, the extent to which they seek to participate in the proceedings, and why they believe their interest will not be adequately represented by the named parties. The decision to grant or deny such a request, and the extent of participation, if granted, shall reside in the discretion of the hearing officer. This rule shall also apply to the association, a local association or region council that may wish to participate in a proceeding in which it is not a named party.

- R 17. *Order of hearing.*** The order of hearing shall be substantially as follows:

- I. Completion of party and witness list;
- II. Introduction of Board of Reference, attorney and secretary to the Board of Reference (make sure that taped record is being made);
- III. Solicitation of settlement offers;
- IV. Review of procedure by Board of Reference hearing officer or attorney;
- V. Consideration and/or decision by the Board of Reference on preliminary motions; establish timelines for recesses and/or adjournments;
- VI. Accuser's opening statement (a summary of the charge and the evidence to be shown in support of it);
- VII. Accused's opening statement (a summary of his/her response to the charge and the evidence that he/she proposes to show; the accused's opening statement may be reserved until the presentation of the accused's case);

- VIII. Presentation of the accuser's case;
- IX. Accused's opening statement, if reserved;
- X. Presentation of the accused's case;
- XI. Presentation of rebuttal evidence by the accuser;
- XII. Presentation of any other documentary evidence or testimony by either party or as requested by the Board;
- XIII. accuser's closing statement (a statement concerning the charges and what has been proven at the hearing in support thereof);
- XIV. Accused's closing statement (a statement concerning his/her defense to the charges and what has been shown in support of that defense);
- XV. accuser's rebuttal (a short comment in response to the accused's closing statement).

- R 18.** *Witnesses.* It is the responsibility of the party calling a witness to arrange for his/her attendance and to reimburse the witness(es), if necessary, for any expenses.
- R 19.** No Uniserv director shall be appointed or permitted to serve as a representative of either an accuser or an accused in a Board of Reference proceeding. Uniserv directors may, upon request, give procedural advice and provide necessary documents and information to parties to the Board of Reference proceeding, as long as such advice, documents and/or information is provided to all parties equally.
- R 20.** *Attorneys' fees and other costs.* All costs, including attorneys' fees, shall be borne by the party incurring them.
- R 21.** *Decisions.* Decisions of the Board shall be rendered in accordance with Article IX of the MEA Bylaws. If the Board deems it necessary to have a transcript of the hearing, the decision shall be rendered within thirty (30) days following receipt of such transcript. Furthermore, the Board, by vote of the judge(s), may extend the issuance date of all decisions by an additional thirty (30) days when necessary or appropriate. If the thirtieth day or the extension thereof occurs on a Saturday, Sunday or a legal holiday, then the decision shall be rendered on the next business day.

All decisions shall be summarized and indexed by title and topic along with a brief statement of facts and kept as a permanent record in a table of cases.

- R 22.** *Disqualification.* A motion to disqualify a judge should be made ten (10) days prior to a hearing and can be made by any judge or by any party to the case and shall be decided by vote of the other judges. In the event that there are not three (3) judges qualified to hear any particular case, the chairperson of the Board of Reference shall so notify the president of the MEA who shall, with the consent of the Executive Committee of the Board of Directors, appoint a qualified Association member to serve in the place of each disqualified judge for that case only.

### Part 3. Declaratory opinions

- R 23.** *Jurisdiction.* Pursuant to the jurisdiction vested in the Board under Section 3 of Article XII of the MEA Constitution, the Board may issue declaratory opinions interpreting the Constitution, Bylaws or Administrative Policies of the MEA, interpreting the constitution or bylaws of any local association or any region of the MEA, or the Constitution or Bylaws of the National Education Association, the Guidelines for NEA Uniserv in Michigan, the Code of Ethics and such other actions as may arise thereunder.
- R 24.** *Requests.* The Board shall consider and may issue declaratory opinions in matters which are submitted to it by the MEA Representative Assembly, the MEA Board of Directors or any region council.
- R 25.** *Form of request.* A written request to the Board for consideration and issuance of a declaratory opinion should be directed to the chairperson of the Board at the office of the Board. Such request should clearly and succinctly allege those facts and circumstances which caused the issue to be presented to arise, together with a clear statement of the particular sections of the Constitution, Bylaws, Administrative Policies or other actions of the Association which are in need of interpretation. The request shall specifically state those questions or issues on which the requesting body desires an opinion.

- R 26. *Notice of hearing.*** Upon receipt of a request for a declaratory opinion by the Board, the secretary of the Board shall immediately notify the chairperson of the Board, and shall schedule a hearing to be held within fifty-five (55) days after the request was filed. The date, time and place of the hearing before the Board shall be given to each member of the Board of Directors, local association presidents and region presidents. Persons or bodies desiring to make written and/or oral presentations regarding the request for a declaratory opinion shall, within ten (10) days of the notification, indicate the reasons therefor and request permission to do so from the chairperson of this Board. Such reasons and requests are to be submitted to the secretary of the Board at MEA Headquarters.
- R 27. *Hearing.*** Requests for a declaratory opinion are heard by a single member of the Board of Reference. If a declaratory opinion is appealed, it will normally be reviewed on the original record by the Appellate Board of Reference, consisting of those members of the Board of Reference who did not hear the case initially. Persons desiring to submit a written argument to the Appellate Board of Reference may do so by submitting same to the secretary of the Board of Reference postmarked no more than fifteen (15) days after the date of the Trial Board of Reference's decision.
- R 28. *Decisions.*** Decisions rendered by the Board shall include those items contained in the request for declaratory opinion and may contain such other items as the Board deems appropriate. The opinion shall be distributed to the party requesting the opinion, to such other parties as may have participated in the hearing, to each member of the Board of Reference, to the MEA president and executive director, and to such other parties as the Board may determine.
- R 29. *Witnesses, attorneys' fees and other costs.*** All costs, including attorneys' fees and witnesses' expenses, shall be borne by the party incurring them. However, where the Board requests the appearance of a person other than on behalf of the party requesting the opinion, it may reimburse such person's actual expenses.

#### **Part 4. Amendments and rescissions**

- R 30. *Amendments.*** These rules may be amended by a majority of the entire Board only after such amendment shall have been proposed at a prior meeting of the Board.
- R 31. *Rescission of prior rules.*** The rules as set forth above constitute the rules of the Board of Reference; any prior rules are hereby rescinded. The changes contained herein were proposed at the Board's meeting on October 15, 1992, and adopted on May 20, 1993, effective as of that date.

Appendix A

**Appeal of the Decision of a Subordinate Judicial Body\***

*(Must be received by the secretary of the Board within thirty (30) days of receipt of the original trial body decision.)*

To: Chairperson  
MEA Board of Reference  
P.O. Box 2573  
East Lansing, MI 48826-2573

From: Appellant's name \_\_\_\_\_

Local association \_\_\_\_\_

Complete address \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

The above appellant was the \_\_\_\_\_ accused/ \_\_\_\_\_ accuser in a trial conducted by:

Name of trial body \_\_\_\_\_

Person presiding at the trial \_\_\_\_\_

Date of trial \_\_\_\_\_ Date of decision \_\_\_\_\_

A copy of the original charge and of the decision which is being appealed must be attached to this form.

On the back of this sheet and/or on attached sheets the appellant must set forth in substance the reasons for believing the trial body was in error and the nature of the error.

A hearing will be called by the Board of Reference within fifty-five (55) days after the appeal is filed, and at least fifteen (15) days notice of the hearing shall be given to the accused, the accuser and the original trial body.

Decisions of the Board of Reference shall be rendered within thirty (30) days of the conclusion of the hearing and shall be distributed to the parties concerned according to the rules of the Board.

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\* Refer to Article XII of the MEA Constitution, articles VIII and IX of the MEA Bylaws, and the MEA Board of Reference Rules of Organization and Procedure.

### Request for a Declaratory Opinion\*

Date \_\_\_\_\_

To: Chairperson  
MEA Board of Reference  
P.O. Box 2573  
East Lansing, MI 48826-2573

From: Officer of body requesting opinion \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ MEA Representative Assembly--vote was taken on \_\_\_\_\_

\_\_\_\_\_ MEA Board of Directors--vote taken on \_\_\_\_\_

\_\_\_\_\_ Region Council--vote taken on \_\_\_\_\_

On the back of this sheet and/or on attached sheets:

- A. Clearly and succinctly allege those facts and circumstances which caused the issue to be presented to arise; and
- B. State the particular sections of the MEA Constitution, Bylaws, Administrative Policies or other policies which are in need of interpretation; and
- C. Specifically state those questions or issues on which the requesting body desires an opinion.

\_\_\_\_\_  
\* Refer to Article XII of the MEA Constitution, articles VIII and IX of the MEA Bylaws, and the MEA Board of Reference Rules of Organization and Procedure

Appendix C (2 pages)

### Charges by Members Against Members\*

*(Must be received by the secretary of the Board within thirty (30) days of the date the charging party had knowledge of, or should have reasonably discovered and been aware of, the alleged offense.)*

To: President (or secretary) of trial body \_\_\_\_\_

Local/state association \_\_\_\_\_

Complete address \_\_\_\_\_

From: Accuser's name \_\_\_\_\_

Local association \_\_\_\_\_

Complete address \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

If there is more than one accused, list the names, local associations, complete addresses and signatures of each:

Name of the accused \_\_\_\_\_

Local association \_\_\_\_\_

Complete address \_\_\_\_\_

If there is more than one accused, list the names, local associations and complete addresses of each:

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\* A copy of these charges must also be filed with the MEA executive director.

### Charges by Members Against Members\*

The following and no other shall constitute the basis for the filing of charges (*check those which apply*):

- \_\_\_\_\_ Violation of any provision of the Constitution, Bylaws or Administrative Policies of the Association, the provisions of the constitution or bylaws of any district (local association), the provisions of any constitution or bylaws of any region of this Association, or the provisions of the Constitution of the National Education Association;
- \_\_\_\_\_ Violation of the Code of Ethics of the Education Profession;
- \_\_\_\_\_ Willful violation of a legally negotiated and approved professional negotiations master agreement;
- \_\_\_\_\_ Obtaining membership through fraud or misrepresentation;
- \_\_\_\_\_ Willfully interfering with any official of this Association, a district (local association), a region or the National Education Association in the discharge of his/her lawful duties;
- \_\_\_\_\_ Misappropriation, embezzlement or improper or illegal use of the funds of this Association, a district (local association), a region or the National Education Association;
- \_\_\_\_\_ Acting in collusion with management to the detriment of the welfare of the Association, a district (local association), a region or the National Education Association, or any of their membership;
- \_\_\_\_\_ Any activity which assists or is intended to assist a competing organization within the jurisdiction of this Association;
- \_\_\_\_\_ Using the name of the Association, a district (local association), a region or the National Education Association in an unauthorized manner or for an unauthorized purpose;
- \_\_\_\_\_ Conduct unbecoming a member or officer of this Association, a district (local association), a region or the National Education Association.

On attached sheets, set forth the specific charges, stating the exact nature of the alleged offense, including the date and circumstances thereof and the specific sections of the Code of Ethics or specified constitutions, bylaws or policies that are alleged to have been violated, along with the specific act or failure to act which constitutes the alleged violation.

A hearing must be called by the trial body within fifty-five (55) days after the charges are filed, and at least fifteen (15) days notice of the hearing shall be given to the accuser. The accused shall be served with a full copy of the charges within ten (10) days after they are filed and at least thirty (30) days before the trial date, by the person with whom the charges have been filed.

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\*Refer to Article XII of the MEA Constitution, articles VIII and IX of the MEA Bylaws, and the MEA Board of Reference Rules of Organization and Procedure.