

Feb 4, 2020

Dear Mr Ableson,

Here are my thoughts on what your interpretation of "due process" for union members is.

This Saturday (2/1/2020) was the first opportunity I had to sign for this letter. You sent this letter "signature required" and I have simply not been home - AFSCME members work for a living, go on vacations and also have responsibilities to care for family members, etc. Our local post office is closed after I get off work - I live in a very small town. In the future, I suggest that you send it sooner. I have attached my own records for your review.

You could have emailed it to me (you certainly have my email address) but for some reason chose not to even though the Judicial Panel Rules of Procedure state that you "**shall**".

I have highlighted in red the items I am asking you to review as you carefully and justly ponder 1) whether or not to give the continuance I have asked for, 2) will grant a different location, 3) choose a different day of the week when we are not required to take vacation, and 4) consider whether this case has merit at all.

By way of a reminder, here is the **Bill of Rights for Union Members**:

2. Members shall suffer no impairment of freedom of speech concerning the operations of this union. Active discussion of union affairs shall be **encouraged** and **protected** within this organization.

8. Charges against a member or officer shall be specific and shall be only on grounds provided in this Constitution. Accused members or officers **shall have the right to a fair trial with strict adherence to due process**. The accused shall be considered **innocent until proven guilty**.

AFSCME Constitution

ARTICLE XIII

Section 3

Communications required or anticipated by these Rules **shall** be sent by email **if** the Judicial Panel has a personal email address for the intended recipient, provided however, that charges and decisions **shall** be transmitted by certified mail, return receipt requested, even if an email transmission is made.

General Provisions

Section 9 The Judicial Panel Chairperson shall be responsible for reproducing the decisions and for **distributing them as required by the International Constitution**.

It is not my responsibility to pass on information to other charged members. AFSCME certainly has the money, why don't you send everyone their own copy of their charges and decisions along with the email that you are required to send? You certainly have all of our email addresses. If the goal of the Constitution and Bill of Rights is to fully protect the fundamental rights of members I would argue that due process is one of those rights. The Dept of Labor agrees with me.

ARTICLE IV TRIALS: GENERAL PROCEDURES

Trial Officers shall be selected in accordance with the procedures set forth in Article XI, Section 8, of the International Constitution. The Judicial Panel Chairperson shall send a list of the names of the Judicial Panel Members to the accuser and the accused. Within fifteen (15) days thereafter, each party shall be afforded the opportunity to delete not more than two names from the list of Judicial Panel Members, by written notification to the Judicial Panel Chairperson. From the names remaining, the Chairperson shall appoint one member of the Judicial Panel to serve as the Trial Officer.

This form wasn't in my packet. Although, I filled it out for JP 19-66 and you ignored it. So maybe you thought, why bother?

Section 5

In computing any period of time prescribed or allowed by these Rules, the date of receipt of any document shall not be included.

This conflicts with Article XI Section 5 of the constitution, "The Judicial Panel shall establish rules of procedure, which rules shall not be inconsistent with the provisions of this Constitution." See below which speaks of how important the "receipt" is of documents.

Speaking of the AFSCME Constitution....

Article X

Section 10. Within fifteen days following the receipt of the charges, the person with whom the charges have been filed shall send by certified mail, return receipt requested, an exact and full copy of the charge to the accused party, together with a copy of Article X of this Constitution and an explanation of the trial procedure to be followed.

I am the only person listed as a charged party who appears to have been sent the charges. You did not include a copy of Article X of the constitution as required.

Section 11. The trial body shall fix the date, time, and place for the trial, in such manner as to afford the maximum convenience to both the accused and the accuser practical under all the circumstances. Except as otherwise specifically provided in this Constitution, it shall not be necessary to maintain a verbatim record of the trial unless request for such record is made by a directly interested party to the proceedings. If such request is made, the party making it shall be responsible for the cost of such record and of three copies of the transcript, one of which shall be furnished to the trial body and one to the opposing party. The reporter shall attach an affidavit to each copy of the transcript stating that it is a true and accurate record of the evidence taken at the trial.

You have unilaterally decided to hold this trial in Everett on a work day which will require me to request a day off of work. And, why Everett? My guess is your goal is to make it difficult for me and my witnesses to attend. Consider this: This would be like me scheduling a meeting in Gettysburg, Pennsylvania and expecting you to attend.

Of course, you and the charging parties are paid to appear, I am not so this is a financial issue as well for both me and my potential witnesses.

Section 12. The accused person shall be guaranteed the following rights: A. *The right to be served personally with, or to have forwarded by certified mail to the accused person's current address of record with the local union, return receipt requested, a full copy of the charges within fifteen days after they are filed and to receive a copy at least thirty days before the trial date.* B. The right to file a written answer to the charges. C. The right to be tried within sixty days after having been personally served, or sixty-three calendar days after having been forwarded, a copy of the charge(s) as provided in Subsection A of Section 12 of this Article. *D. The right to have at least fifteen days' advance notice of the date, time, and place of the trial.* E. The right to confront the accuser. F. The right to cross-examine the accuser and any witnesses. G. The right to present witnesses in the accused person's behalf. *H. The right to compel the production of union records pertinent to the case.* I. The right to choose a person to act as the accused person's counsel in the case. *J. The right to be presumed innocent unless proven guilty.* K. The right to refuse to testify; provided, however, that this right shall not include the right to refuse to produce at the trial any papers, books, or financial or other records which are the property of the union and which are pertinent to the case. L. The right to appeal, in the manner hereafter provided. M. The right to choose either an open or closed hearing.

To whom shall I make my records request? That information would be a great thing to include in the "explanation of the trial procedure..." Who decides if the records requests are pertinent? Please send me the name of the person to whom I make request so I may issue a Subpoena *Duces Tecum* for the documents Council 2 and you wish to keep secret from the membership.

ARTICLE XI

Section 5 The Judicial Panel shall establish rules of procedure, *which rules shall not be inconsistent with the provisions of this Constitution.* The rules and any changes in such rules shall be subject to the approval of the International Executive Board, and shall become effective only upon the granting of such approval. A copy of such rules shall be filed with the International Secretary-Treasurer and shall be made available to any member of the Federation upon request. *A copy of the rules shall be sent to all locals and councils.*

Would it surprise you to know that this was never given to Council 2 Locals?

Finally, I believe I have the right to be individually charged. I believe everyone else listed as "et al" as the right to be individually charged. You are making critical errors that affect member's rights. For instance, Stemler and Dugovich refer to Kirk Juneau in Charge 1 yet you, Brother Abelson, do not list him as a charged party in the documents and he has NEVER received anything from you. These types of omissions are either incompetence or flat out purposeful because you don't like us. We are leaving Council 2 and AFSCME because of this type of incompetence. You at the International are supposed to set the example for Councils, yet you appear to be endorsing Council 2's mismanagement and misinterpretation of the very rules that are supposed to protect members and the ensure due process. This is not what the labor movement is about – you are hurting the labor movement.

I will not be intimidated by you or any organization. These Judicial Panel "rules" are nothing more than a license to do whatever you want and act in a biased manner. I now learning that your rigged judicial process is being nationally ridiculed by pro-union, anti-corruption organizations. I am fully aware that in order to avoid scrutiny by the Dept of Labor regarding placing our Local under illegal Administratorship you need to conjure up financial misdeeds. However, your blatant disregard for due process is going to get you into even more trouble. I draw your attention to this Dept of Labor rule:

No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except of nonpayment of dues by such organization or by any officer thereof unless such member has been (A) Served with written specific charges; (B) given a reasonable time to prepare his defense (C) afforded a full and fair hearing.

Mr Abelson, I would like to address your statement below:

"Lastly, other than to the extent set forth in the Judicial Panel Rules of Procedure, the Judicial Panel does not get involved in the appointment of attorneys to represent the parties in Judicial Panel trials."

I disagree. As you know, Council 2, with the permission of Judicial Panel trial officer McKenna, allowed certain Local 114 members to be represented by the Council 2 attorney. To not offer the same resource to all of the Local 114 members is biased and AFSCME trial officer was a willing participant. I want to make crystal clear that as Union members we believe we are covered by the Dept of Labor. As such we will pursue this inequity to the fullest extent possible under the law.

You surely know that no money was stolen here, not \$3000, not \$12,007 and not \$1. I was carrying out the wishes of our membership. Each and every time. This is about retaliation, plain and simple. You know it, I know it and our members know it. Soon, every Local in Washington State will know it if they don't already. I'm willing to go National and have already received an invitation to do so.

You see, contrary to what you believe or have been told, I don't want to hurt the labor movement. I want to see it succeed and be held accountable so it can be better. I want to see people volunteer and be willing to help their group improve. Yes, sometimes a box may not be checked, but we learn and we do our best not to repeat procedural errors when they do occur.

Your actions are a key reason that some people don't like Unions. It's doesn't appear to be about improving working conditions and better pay for you. It's not about safety at work or great medical benefits or any of the things that our members here in Bellingham are interested in. For you, it's about the Good 'ol Boys network. The urge to back each other up no matter how wrong you are. This mentality will eventually be AFSCME's demise here in Washington State and beyond. That is saddening.

In closing, I encourage you to file a report with the Bellingham Police or the Whatcom County Sheriff if you truly believe that money was stolen so that I can provide the evidence that we all know exists to the contrary. If you don't have that, then proceed if you must with your Kangaroo Court.

Sincerely,



**Jael Komac, member
Local 114**