

# Judicial Board Rules

## Prologue

These rules are established under Article V, Section 2, Part E of the Progressive Caucus of the NCDP Bylaws which empowers the Judicial Board “to adopt necessary and appropriate rules to assure that each dispute and grievance is settled impartially, equitably and according to rules of justice and fairness.” These rules supplement section V Judicial Board of those bylaws.

## Rules and Decisions

A minimum of three (3) members of the entire membership of the Judicial Board shall constitute a quorum. All decisions concurred in by a majority of the Judicial Board present and voting shall be final and binding upon all Progressive Caucus of the NCDP meetings and officials, except that the decision is appealed. Any decision for which the Judicial Board is tied shall be automatically appealed to the Caucus Executive Committee.

If a Judicial Board Decision is appealed to the Caucus Executive Committee, a copy of the Judicial Board’s proceedings and any written evidence that was considered by the Judicial Board shall be forwarded to the Caucus Secretary. The Caucus Executive Committee may refuse to hear an appeal, or refer the appeal back to the Judicial Board, or make a final decision. All appeals decisions concurred in by a majority of the Caucus Executive Committee present and voting shall be final and binding upon all Progressive Caucus of the NCDP meetings and officials.

## Jurisdiction

The Judicial Board shall assume jurisdiction of all matters and disputes arising from any Caucus meeting or convention provided for in Caucus By Laws; provided such dispute or grievance is brought to the attention of the chair of the Judicial Board within thirty (30) days after such meeting or convention was convened or was to have been convened, or within thirty (30) days after the Petitioner(s), through the exercise of due diligence, could have discovered the incident or event giving rise to the grievance, whichever is latest. However any dispute or grievance arising from an incident preceding the adoption of these rules may be brought to the attention of the Chair of the Judicial Board within thirty (30) days of the adoption of these rules. The Judicial Board shall have sole discretion to determine whether a dispute or grievance has been timely raised with the Judicial Board, but in no event shall the Judicial Board consider any incident or event occurring more than six (6) months prior to the alleged grievance. Any grievances arising from such Caucus meetings or convention not brought to the attention of the chair of the Judicial Board within the time limits set forth hereinabove shall be deemed to have been waived, unless the Judicial Board determines that the incident or event could not have been discovered through the exercise of due diligence within such period of time. An aggrieved voting Caucus member shall be deemed to have brought such to the attention of the chair of the Judicial Board if written notice was delivered by hand or mailed, with a postmark imprinted by the United States Postal Service or a postage meter approved in accordance with a permit issued by the United States Postal Service, or by time stamped email to the chair

of the Judicial Board within the time limits set forth hereinabove. The Judicial Board shall also assume jurisdiction of all matters and disputes referred to it by the Caucus Chair.

The person(s) filing the grievance shall be referred to as the Petitioner(s). The person(s) against whom the grievance is filed shall be referred to as the Respondent(s).

## **Mediation**

After a grievance is received by the chair of the Judicial Board, the chair of the Judicial Board shall immediately forward to the Respondent(s) and the Caucus Chair a complete copy of the grievance.

Within ten (10) days after a grievance is received by the chair of the Judicial Board, the chair of the Judicial Board shall invite the Petitioner(s) and the Respondent(s) to participate in mediation by an assigned mediator. If all Petitioner(s) and all Respondent(s) agree to mediation of the grievance, the matter shall be immediately referred by the chair of the Judicial Board to the mediator assigned to mediate the grievance. If any Petitioner or Respondent refuses to participate in mediation, the matter shall be immediately referred to the Judicial Board for adjudication.

The mediator assigned to the grievance shall have fifteen (15) days in which to mediate a resolution between the Petitioner(s) and Respondent(s). If a resolution is agreed to between the Petitioner(s) and Respondent(s), the mediator shall reduce the resolution to writing and have the Petitioner(s) and Respondent(s) sign the resolution. The signed resolution must be approved by the chair of the Judicial Board. Once approved by the chair of the Judicial Board, this resolution shall be final and binding and the grievance shall not be referred to the Judicial Board.

If a mediated resolution is not agreed to within fifteen (15) days, the grievance shall be referred back to the chair of the Judicial Board and the procedures below shall be followed.

## **Notice**

Within ten (10) days of either a refusal by a party to participate in mediation or a referral of the grievance back to the chair of the Judicial Board following a failed attempt at mediation, the chair of the Judicial Board shall give notice of the date, time and place that the Judicial Board will hear the matter. Said hearing shall be held within forty (40) days of the date that notice was issued.

The notice shall be sent to the following: the Petitioner(s), the Respondent(s), the Caucus chair, and the appropriate chair(s) of the Caucus chapters(s). Notice shall also inform the Petitioner(s) and Respondent(s) that they may be represented by Counsel.

## Procedures for the Judicial Board

**Opening:** The chair of the Judicial Board shall begin the hearing by ascertaining that all parties have been given notice of the hearings and copies of the grievance and such other documents as may have been filed, and that all witnesses requested by either the Petitioner(s) or the Respondent(s) to be invited and attend have been invited by the chair of the Judicial Board. The chair of the Judicial Board shall advise the parties that the hearing is held to enable the Judicial Board to hear evidence of the acts, omission or conditions alleged in the grievance and to adjudge, on the basis of that evidence, the merits of the dispute or controversy involved, and the Judicial Board has the right to confront and cross-examine the Petitioner(s) and all witnesses adverse to a party involved, and to present evidence and argument.

**Admissibility of Evidence:** The evidence of witnesses, beginning with those who support the grievance, shall be given under oath or affirmation if any material allegations of fact are denied by the Respondent(s), and shall be elicited by the parties, or their representatives, and as appropriate, by any member of the Judicial Board. An opportunity for cross-examination of all witnesses shall be allowed. Evidence, to be admissible before the Judicial Board, shall be of a direct, non-hearsay nature. The Chair of the Judicial Board shall rule on all issues of procedure and evidence and may only be overturned in the hearing by a two-thirds ( $\frac{2}{3}$ ) majority of the Judicial Board present and voting.

**Standard of Proof:** In order to uphold the grievance, all material facts alleged therein shall be proved by clear and convincing evidence.

**Procedure:** The following Procedure shall be observed for the hearing by the Judicial Board.

- 1, Presentation of Case by the Petitioner(s) (30 minutes maximum)
  - a. Opening statement concerning the Petition, if desired.
  - b. Petitioner(s)' witnesses are called, examined and cross-examined.
  - c. Petitioner(s)' non-testimonial evidence is presented.
2. Presentation of Case by Respondent(s) (30 minutes maximum)
  - a. Opening statement concerning Answer, if desired.
  - b. Respondent(s)' witnesses are called, examined and cross-examined.
  - c. Respondent(s)' non-testimonial evidence is presented.
3. Closing Statement by each party. (5 minutes maximum for each)
4. Judicial Board closes to deliberate in executive session without petitioner(s), respondent(s), and witnesses present. The Judicial Board will announce its decision in open session before all parties and will, upon request, announce the numerical vote.

The Judicial Board, by majority vote of those present and voting, may extend the lengths of time for presentations and closing statements outlined in 1. - 3. above.

**Adjudication:** In adjudicating any dispute arising before it, the Judicial Board shall find that the Petitioner(s)' grievance either is meritorious or non-meritorious, in whole or in part. In any case in which the Judicial Board determines that a grievance is meritorious, in whole or in part, the Judicial Board must then determine whether the incident(s) or event(s) complained of had any material impact adverse to the interests of the Petitioner(s). If the Judicial Board determines that a material adverse

impact has occurred, it shall order steps, within its discretion, to remedy the impact caused by the incident or event complained of. When the Judicial Board determines that no material adverse impact has occurred, it shall not enter any order other than its order finding that the grievance is meritorious but without material adverse impact. For an order to be issued, a majority of the Judicial Board must concur.

**Appeal:** All decisions concurred in by a majority of the Judicial Board present and voting shall be final and binding upon all Progressive Caucus of the NCDP meetings and officials, except that the decision is appealed. Any decision for which the Judicial Board is tied shall be automatically appealed to the Caucus Executive Committee. Any appeal must be requested within 15 days of the date on which the decision of the Judicial Board is made public.

If a Judicial Board Decision is appealed to the Caucus Executive Committee, a copy of the Judicial Board's proceedings and any written evidence that was considered by the Judicial Board shall be forwarded to the Caucus Secretary. The Caucus Executive Committee may refuse to hear an appeal, or refer the appeal back to the Judicial Board, or make a final decision. All appeals decisions concurred in by a majority of the Caucus Executive Committee present and voting shall be final and binding upon all Progressive Caucus of the NCDP meetings and officials.

Decisions regarding removal from any office of the Progressive Caucus of the North Carolina Democratic Party shall be governed by Article II, section 3 of the Progressive Caucus of the NCDP bylaws.