

**Operating Rules and Procedures for Implementation and Enforcement  
of the  
Code of Ethics  
of the  
International Union of Operating Engineers**

**A. Introduction**

1. These Rules and Procedures for Implementation and Enforcement of the Code of Ethics of the International Union of Operating Engineers (the "Operating Rules") result from the action of the 37th General Convention of the International Union of Operating Engineers (the "International"), which adopted a Code of Ethics (the "Code") for the International, its Local Unions and all other subordinate bodies, and their officers, employees, and agents, as well as the union trustees of any related benefit funds.

2. Sections VII.B and C of the Code adopted by the 37th General Convention state:

"B. The General Executive Board, upon the recommendation of the General President and after consultation with the Ethics Officer, shall formulate such rules of procedure and establish such practices as are necessary to facilitate the proper functioning of this Code ("Operating Rules"). C. The conditions concerning the duties, term of office and other matters concerning the Ethics Officer shall be set forth in the Operating Rules."

Pursuant to this authority, the General Executive Board has adopted these Operating Rules, the purpose of which is to establish appropriate procedures for the application and enforcement of the Code.

3. Interpretation of these Operating Rules shall be guided by the core principle that the International Union and its affiliated entities function democratically, with integrity, for the sole benefit of the members.

4. The Ethics Officer shall have the responsibility to interpret the Operating Rules; he may consult with the Office of the General President and General Executive Board in doing so. Recognizing that the position of Ethics Officer is a new one for the International, and that the operation of that office will have to be integrated into the preexisting constitutional and legal framework of the International, the General Executive Board, in consultation with the Ethics Officer, may amend these Operating Rules as experience dictates, provided that such amendments are in writing and are distributed to the membership.

5. To assist in compliance with the Code, the International will conduct education and training concerning the contents of the Code and on ethical conduct for its officers, representatives, and employees, as well as for the officers, representatives, and employees of its subordinate bodies. Such education and training will be provided by, among others, the Ethics Officer, the International's Research and Education Department, the International's Legal Department, and through attendance at education and training programs provided by respected third parties with established expertise in the area.

**B. Office of the Ethics Officer**

1. The Code establishes the office of Ethics Officer whose primary responsibility is to assist in the implementation and enforcement of the Code.

2. The Ethics Officer shall be selected by the General President, subject to the approval of the General Executive Board. The Ethics Officer shall be an attorney of unimpeachable integrity and reputation, preferably with experience in both law enforcement and the workings of the labor movement. The first Ethics Officer shall be James Zazzali, Esq., the recently retired Chief Justice of the Supreme Court of New Jersey and former Attorney General of the State of New Jersey.

3. The Ethics Officer's initial term shall be until completion of the 2013 International Convention. Thereafter, the Ethics Officer may continue in office provided the International and the Ethics Officer so agree and on such terms as they may agree.

4. The Ethics Officer shall exercise such investigative authority as he is authorized and empowered to exercise pursuant to the Code, and shall review and, if necessary, investigate any allegations, complaints or inquiries concerning conduct violative of the Code. The Ethics Officer's authority shall include, but not be limited to, the authority:

a. To review the books and records of the International or of any affiliated International body at any time to the

extent that the Ethics Officer may determine that such review is necessary in the conduct of his duties.

b. To receive in advance the agenda for any meeting of the General Executive Board, and to attend meetings or portions of meetings of the General Executive Board that relate in any way to the rights, duties or activities of the Ethics Officer.

c. To take and require sworn statements or sworn in-person examinations of any person covered by the Code, provided that the person to be examined has been given adequate advance notice of the examination in writing and, provided further, that the person to be examined has the right to be represented by a member of the union or legal counsel of the person's choosing during the course of said examination. Failure to appear for a duly-noticed in-person examination shall be deemed a failure to cooperate fully with the Ethics Officer.

d. To take the sworn statements, or sworn in-person examinations of persons not covered in the foregoing subparagraph "c".

e. To attend meetings of any affiliated body of the International.

f. To investigate, on his own initiative, any matter which he considers to be a violation of the Code.

5. The Ethics Officer shall be sensitive to the danger of unproven allegations made during political campaigns because of the irreparable harm that can be caused to a person wrongly accused of a violation. The Ethics Officer shall not have jurisdiction over grievances by members arising under a collective bargaining agreement with an employer or complaints alleging violations of the International's Constitution, unless the matter also involves an allegation of prohibited conduct under the Code.

### **C. Complaints and Referrals**

1. Any member has the right to file a complaint concerning alleged violations of the Code with either the Ethics Officer or with the International Union.

2. If the member files the complaint with the Ethics Officer he or she may do so in writing to an address to be provided to the membership or he or she may use the telephone "Hotline" described below.

3. If the member files the complaint with the Ethics Officer, the Ethics Officer shall keep the identity of the member confidential to the extent possible consistent with conducting an appropriate investigation into the allegations.

4. If, alternatively, the member files his complaint with the International, the International shall refer the matter to the Ethics Officer.

5. The International may also refer matters to the Ethics Officer for review and/or advice. Similarly, Local Unions and other subordinate bodies of the International may refer matters to the Ethics Officer for review and/or advice.

### **D. Investigations, Investigative Reports, and International Action**

1. In the event that the Ethics Officer takes jurisdiction of a matter and concludes, after initial review of the allegations, that the claim or claims are frivolous or that further investigation is not necessary, he shall advise all relevant parties including the charging party, the party or parties charged, and the International. However, if the Ethics Officer finds that the charges may have merit and warrant further investigation, he shall conduct further investigation.

2. If the Ethics Officer concludes, after further investigation, that the allegations are without merit, he shall notify all relevant parties, and that notice will conclude that matter.

3. If, however, the Ethics Officer finds after further investigation that the allegations have merit and that further action is warranted, then, upon completion of his investigation, the Ethics Officer shall prepare a written report (the "Investigative Report") detailing findings, recommendations and/or formal charges, if any, concerning the discipline of individuals covered by the Code.

4. The Ethics Officer shall submit any Investigative Report to the appropriate International affiliate (such as a Local Union), the General President, the General Executive Board, the person who filed the allegations or charges, and the person, persons or entity against whom the charge or allegation was made. The Ethics Officer may designate a matter as an original jurisdiction case for the General Executive Board if the matter concerns an offense committed by or against an officer of the International Union or the International Union itself.

5. If the matter does not involve original jurisdiction for the General Executive Board, the International affiliate to which the matter is referred shall have the opportunity to undertake whatever action is appropriate under the circumstances to resolve the referred matter.

6. Within a reasonable period of time after the referral, the International affiliate to which a matter has been

referred shall advise the Ethics Officer in writing of the specific actions that the entity has taken, if any, concerning the referred matter and the reasons for such action.

7. If the Ethics Officer, at any time after he issues his Investigative Report, determines, in his sole judgment, that a matter is not being or has not been pursued or decided by the International affiliate to which the matter has been referred in a responsible or timely manner, or that the resolution proposed by the relevant International affiliate is inadequate under the circumstances, the Ethics Officer shall notify the International affiliate of his or her determination, and the reasons for it. A copy of said notice shall be sent by the Ethics Officer to the General President and the General Executive Board.

8. Within thirty (30) days of the receipt of the notice described in the preceding paragraph, the International affiliate involved shall have the opportunity to cure any deficiencies identified by the Ethics Officer in his notice. The International affiliate shall simultaneously file with the Ethics Officer an affidavit setting forth any and all additional actions it has taken and/or will take to correct the deficiencies as set forth in the Ethics Officer's notice, and shall state the date by which such action was or will be completed. After receipt and consideration of the International affiliate's affidavit, the Ethics Officer shall issue a written determination concerning the adequacy of the additional action taken and/or proposed.

9. If the Ethics Officer concludes that said action is satisfactory, that concludes the matter except that the Ethics Officer may require appropriate enforcement or further review. However, if the Ethics Office concludes that the International affiliate involved has failed to take or propose satisfactory action to remedy the defects specified by the Ethics Officer in the notice described in the preceding paragraph, or if for any reason the matter is not resolved in a manner satisfactory to the Ethics Officer, the Ethics Officer shall promptly refer the matter to the General President for consideration of the exercise of the authority conveyed by Article VI, Section 3 of the International Constitution. In any proceeding initiated pursuant to Article VI, Section 3 involving a matter reviewed by his office, the Ethics Officer may participate as a witness.

10. With respect to any matter involving a violation of the Code of Ethics, if the Ethics Officer, in his sole discretion, determines that either the International affiliate or the International itself has not taken sufficient steps to address and resolve the matter, he may initiate a proceeding before an independent third party Hearing Officer to remedy the alleged violation. Any trial before such Hearing Officer shall provide the safeguards contained at 29 U.S.C. § 411(a) (5) and shall be conducted under the rules and procedures generally applicable in labor arbitration proceedings, with decisions made based upon a "just cause" standard.. Notwithstanding anything to the contrary in the these Operating Rules, the Ethics Officer may adjourn or conclude any investigation or proceedings if he determines that it is more appropriate to refer the matter to a government agency for review or that it is more appropriate that an International entity investigate and decide the matter in accordance with its Constitution and/or By-laws.

#### **E. Cooperation**

All officers, members, employees, agents and representative of the International and its affiliated bodies shall cooperate fully with the Ethics Officer in the course of any investigation or proceeding undertaken by the Ethics Officer and in any effort by the Ethics Officer to enforce the Code. Unreasonable failure to cooperate with Ethics Officer shall be deemed conduct that violates the Code.

#### **F. Hotline**

1. The Ethics Officers shall set up a toll-free telephone number to serve as a Hotline for members to report to the Ethics Officer any incidents or allegations of violations of the Code.
2. The Hotline will allow members to provide information to the Ethics Officer while maintaining their anonymity.
3. The Hotline is not intended to be used for routine complaints about employers, officers, any International affiliate, or International policy, unless the matter involves an allegation of conduct violative of the Code.

#### **G. Salaries and Finances**

1. The International and the Ethics Officer shall agree to appropriate compensation for his services and shall reduce that agreement to a written retainer. The Ethics Officer may utilize personnel to exercise the authority and perform the task enumerated in these Operating Rules. Accordingly, the Ethics Officer may employ attorneys, investigators, auditors, accountants and other personnel, if any, that the Ethics Officer deems necessary and proper for completion of the Ethics Officer's task. The International shall similarly pay the costs and expenses of any

personnel utilized by the Ethics Officer. In the event that the Ethics Officer decides to recuse himself from a matter, he may select a replacement for that particular matter after appropriate consultation.

2. Costs and expenses shall include, but are not limited to: (a) the costs associated with the performance of any of the functions outlined in these Operating Rules; (b) the cost of communications pursuant to Paragraph "J"; and (c) the cost of establishing and operating a toll-free telephone "Hotline" service pursuant to paragraph "F".

3. Until the parties agree otherwise, the Ethics Officer and staff shall be responsible for their overhead costs such as rent. The International shall reimburse those parties for travel expenses incurred as a result of the exercise of their responsibilities under the Code and these Operating Rules. All permissible costs and expenses of the Ethics Officer and any personnel he utilizes are to be billed to the International on a monthly basis.

4. The International shall not be required to provide to the aforementioned personnel any sick pay, holiday pay, vacation pay, health insurance and pension coverage, payment of FICA self-employment tax, or any other benefits provided to International employees.

#### **H. Indemnification**

The International shall purchase a policy of insurance in an appropriate amount to protect the Ethics Officer, and persons acting on his behalf from personal liability (or fees and costs incurred to defend against the imposition of liability) for any of their actions in the course of the performance of their duties hereunder. If such insurance is not available, or if the International so elects, the International shall indemnify the Ethics Officer and persons acting on their behalf from any liability (or fees and cost incurred to defend against the imposition of liability) for such action taken pursuant to the Code and/or these Operating Rules.

#### **I. International Decisions**

1. The General President's office shall apprise the Ethics Officer of any International disciplinary matters, International Supervisions, and International Monitorships so that he or she may become aware of any violations of the Code that are implicated in those actions and fully participate in any relevant proceedings to the extent necessary to ensure compliance with the requirements of the Code.

2. Failure to keep the Ethics Officer advised of these matters shall be deemed to be a failure to cooperate fully with the Ethics Officer.

#### **J. Communications and Reporting**

1. The Ethics Officer shall have the authority to distribute materials to the membership of the International (including but not limited to copies of the Code and these Operating Rules), and to publish material, including in The International Operating Engineer, as necessary to facilitate his investigations, to inform the membership, and to ensure the proper implementation of the Code.

2. The Ethics Officer shall consult with the General President as necessary to assure that the Code is enforced, and shall provide quarterly reports to the General Executive Board on his activities, including reports on the individual matters on which he has worked during the quarter and the outcomes of his investigations.

#### **K. Limitation**

Nothing in this Code shall create any further due process rights beyond what the charged party would have otherwise been entitled under the International Constitution and applicable statutes, and nothing in this Code shall in anyway limit the inherent authority of any International entity to lawfully discipline members or dismiss employees or non-elected representatives of any International entity insofar as permitted by the International Constitution and applicable statutes.

#### **L. Duty to Read and Apply this Code of Ethics**

A copy of the Code and these Operating Rules shall be provided to each officer, representative, and employee of the International, and will also be provided to each Local Union for distribution to its officers, representatives, and employees. It is the duty and obligation of every person covered by the Code to read and abide by its provisions. Each person covered by the Code shall verify to the Ethics Officer that he or she has read and understood it.