

Division V – Laws Relating to Trials
Chapter 1 – Constituent Lodge Trials

Code 401. Penal Jurisdiction

Each constituent Lodge shall have and exercise penal jurisdiction over its members wherever they may be sojourning and shall bring to trial every Mason charged with a Masonic offense. The penal jurisdiction outlined in this code shall continue in effect for any New Mexico Mason during any period of suspension and during any period he may hold a demit issued by this Grand Jurisdiction.

Code 402. Charges Against Master or Grand Master

No Lodge shall entertain charges against its Master or the Grand Master while in office nor shall it try him after the expiration of his term for misconduct relating to the performance of his Masonic prerogatives and duties committed while in office. Masonic prerogatives and duties of the Master are defined in The Grand Lodge of A.F. & A.M. of New Mexico Official Monitor and Ceremonies. Masonic duties for the Grand Master are defined herein, viz. Chapter II, Code 20.

Code 403. Who May Prefer Charges and Method.

Any Master Mason in good standing may prefer charges. When so directed by the Master of the Lodge, the Junior Warden shall prefer charges. Charges shall be specific and substantially in the form prescribed in the appendix to these By-Laws and shall be signed by the Brother preferring same. When charge is preferred, it shall be presented at a regular communication, read by the Secretary and a full copy of the charge shall be included in the minutes. Thereupon the Master shall fix the time for trial and the Secretary shall cause to be delivered to the accused a true copy of the charge and notice of the trial date by registered mail with hard-copy return receipt, postage prepaid, at his last known post office address at least twenty days before the date set for trial.

Code 404. Proof of Service.

The return receipt showing the recipient's signature shall constitute proof of service. If proof of service is not available at least 7 days prior to the trial date, then the Secretary shall attempt to contact the accused by email, then by telephone. If the Secretary is unable to contact the accused by registered mail, email, and telephone, then the Secretary shall provide a written affidavit of the dates and times of attempted contact, whereupon the Master may proceed with the trial on the date previously set without proof of service.

Code 405. Appearance.

Within the time specified in the notice, the accused may appear, in person or by his counsel, who shall be a Master Mason in good standing, and may object to the sufficiency of the charge or file his answer thereto. He shall set forth any matter by way of explanation or extenuation of the offense charged or may interpose a plea of guilty or not guilty.

Code 406. Objection to Sufficiency of Charges.

If objections be raised to the sufficiency of the charge, sham shall be determined by the Master.

Code 407. Plea and Trial.

(a) PLEA OF GUILTY. If a plea of guilty be interposed, trial shall be unnecessary but at the time appointed for trial the Lodge shall prescribe the punishment and may hear testimony to assist it in determining same.

(b) PLEA OF NOT GUILTY. If plea of not guilty be entered, the trial shall proceed at the

time fixed unless continued for good cause.

Code 408. Presentation of Evidence and Trial.

- (a) Trial shall be conducted upon the highest degree to which the accused has attained. Testimony of all Masons shall be taken orally in open Lodge.
- (b) Testimony of non-Masons, or of Masons unable to attend the trial, shall be taken in writing by a committee designated for such purpose by the Master or submitted in the form of affidavits. Such testimony shall be taken at least 24 hours prior to the date set for the trial, and the accused shall be given at least 24 hours' notice of the time and place fixed for the taking of any such testimony and have the right to be present and propound questions relevant to the charge.
- (c) The record of a court of competent jurisdiction showing conviction of the accused for the offense specified in the charge shall constitute competent evidence in support of charge. The record of such a court showing acquittal of such charge shall likewise be competent evidence on behalf of the accused.
- (d) At the conclusion of the testimony the case may be argued by the accuser and accused or by their counsel. The Lodge may ask questions to clarify matters of fact pertaining to the testimony and arguments, but shall not speak for or against the accused or accuser during the presentation of evidence and trial. At the conclusion of argument the accuser and accused shall retire whereupon the case shall be determined.

Code 409. Voting.

- (a) The Master shall submit each specification separately and consecutively. Each member shall deposit his ballot with the words "Guilty" or "Not Guilty" written thereon.
- (b) Unless two thirds (2/3) of the votes shall be "Guilty" the accused shall be declared not guilty. The Secretary of the Lodge shall so notify him in writing under seal of the Lodge.
- (c) If there be more than one specification contained in the charge, the accused may be adjudged guilty upon one or more of such specifications and not guilty upon one or more of same or he may be adjudged guilty or not guilty upon each and every one thereof.

Code 410. Punishment.

- (a) If the verdict be guilty on one or more or all of the specifications, the Master shall put the question: "Shall the accused be expelled?" If a majority, by written ballot, shall vote against expulsion, the Master shall then put the question: "Shall the accused be suspended for ?", inserting in the blank the longest period of suspension proposed by a Brother and so continue until there be a majority vote for same for the shortest time proposed. The Master may propose a period of suspension in lieu of proposal by a Brother. If a majority shall vote for expulsion or for suspension for a specified time, the accused shall be so notified by the Secretary of the Lodge, in writing and under seal of the Lodge.
- (b) If a majority shall refuse to vote for expulsion or for suspension for any specified time, then a reprimand shall be administered by the Master at a time and place to be fixed by him and in such language and format as he deems proper.

Code 411. Visitors.

During a trial no visitor shall be admitted unless he be present as a witness or as a counsel.

Code 412. Trial By Commission.

- (a) After a Lodge has accepted charges against a Brother and if the Lodge (by a majority vote), or the accused or the accuser shall make the request that the case be tried by a commission, the matter shall be referred to the Grand Master. The Grand Master shall determine sufficiency of the charges referred to him. The Grand Master may approve the request, determine sham, or deny the request. If he

approves the request, he shall appoint a trial commission to take charge and try the case, and shall set the date of the trial. The Grand Secretary shall serve the charge as per codes 403 and 404. If the Grand Master denies the request, the Lodge shall try the case as set forth in the preceding codes.

(b) Each trial commission appointed by the Grand Master shall consist of three (3) disinterested and experienced Brethren, but not members of the Lodges interested.

(c) Every trial commission shall be clothed with the authority to summon witnesses through the Master and Secretary of the Lodge. A trial commission shall not quash or modify charges and specifications.

(d) Each trial commission shall thoroughly investigate the case submitted to it and cause a complete record of facts and testimony to be made. The proceedings including the testimony of witnesses shall be transcribed. The accused shall secure the attendance of his witnesses, the expense of which shall be borne by him. **2013**

(e) The trial commission shall transmit its decision to the Grand Master and the Lodge and shall file with the Lodges interested a complete transcript of the testimony and proceedings of the trial within thirty (30) calendar days. The transcript of the testimony and proceedings shall be delivered in a sealed envelope and shall not be unsealed except as part of the Appeals process defined hereinafter.

(f) If the trial commission finds the accused guilty, the commission shall fix the penalty and upon its report to the Lodge, the Secretary shall record the same in his minutes and notify the accused of the result.

(g) The sentence imposed by the commission shall take effect as soon as it is reported to the Lodge.

(h) Appeal by a party entitled thereto shall be the same as if the trial has been conducted by the Lodge.

Code 413. Appeals.

(a) The accused, or accuser or any Brother feeling aggrieved at the judgment of the Lodge or of the Trial Commission shall have the right of appeal from the judgment of the Lodge or of the Trial Commission to the Grand Lodge. The appeal shall be in writing and in the form prescribed in the appendix to these By-Laws. Notice thereof shall be filed with the Secretary of the Lodge, within sixty (60) days after judgment.

(b) Upon receipt of such notice, the Secretary shall notify the accuser, accused, and all relevant parties of such appeal and shall prepare a complete transcript of the charge, specifications, evidence and findings of the Lodge as shown by the records, certifying the same under seal of the Lodge. After having given the accuser and accused five days' notice in writing of their right to appear, examine the transcript and note exceptions thereto, the same will be transmitted to the Grand Secretary.

(c) The appeal shall be submitted to the Grand Lodge at its next ensuing Annual Communication and shall be then and there determined upon the transcript as submitted. One advocate each for the accused and the accuser may be identified at the time the transcript is submitted, and the Grand Lodge may hear their additional testimony.

(d) The appeal must be accompanied by a letter from the appellant documenting how the trial judgment was in error. The Grand Master, having studied the documentation, can proceed with the appeal, or stop the appeals process if the argument is found to be not compelling.

Code 414. Judgment of the Grand Lodge

The Grand Lodge may affirm the decision, may remand the case for a new trial, or may reverse the decision and dismiss the case. The Grand Master shall put the question: "Shall the decision be affirmed?" If majority is not had, the Grand Master shall then put the question: "Shall the case be remanded?" If majority is not had, the Grand Master shall put the question: "Shall the decision be reversed and the case be dismissed?" If no majority is had, then the appeal shall be considered denied

and the judgment shall be upheld. Only the representatives of Lodges may vote, and each Lodge shall be entitled to but one vote, whether represented by one or more delegates; and, in case of a tie, the Grand Master, or Deputy, when presiding, shall by virtue of his office cast the deciding vote.

Code 415. Status of Accused Pending Appeal.

If the judgment against the accused be that of suspension or expulsion, his status shall remain unchanged pending appeal and his subsequent status shall be fixed in accordance with the judgment rendered upon appeal.

Code 416. Promulgation of Judgment.

The printed proceedings of the Grand Lodge shall constitute the official pronouncement of its judgment.

Code 417. Restoration.

- (a) A suspended Mason may apply to the Lodge inflicting the sentence for restoration to his former status only after the lapse of the time assigned for his suspension. The petition for restoration shall follow that defined for Reinstatement in Code 375. The application shall lie over until the next regular communication and every resident member shall be notified thereof.
- (b) At the next regular communication the Lodge shall ballot upon the application and if the vote be unanimously in favor of restoration, the applicant shall thereby and thereupon be restored to good standing.
- (c) If the Lodge which inflicted the punishment be extinct, the Brother may apply to the Grand Lodge for restoration. Accompanying his application shall be recommendations of members of the extinct Lodge, so far as possible, along with recommendations from the Lodge within the jurisdiction in which he resides. If the Grand Lodge shall unanimously vote to restore him, he shall thereby acquire the status of a nonaffiliated Mason with the right to apply to any Lodge for membership.
- (d) There is no restoration for an expelled Mason. Expulsion is permanent. (Proviso: The permanence of expulsion shall apply to any Mason expelled after this code is accepted. The permanence of expulsion shall apply to any Mason expelled before this code is accepted after a period of one year from the time that the code is accepted.)

Code 419. Penal Sanctions – Plural Members

In matters of penal jurisdiction, after the proper notification from the Grand Secretary, penal sanctions taken by any Lodge in which a member holds membership shall impose mandatory identical actions upon the member in all Lodges in which he holds plural membership. Restoration shall be had only to the Lodge which inflicted penal sanctions, and once restored, the member is entitled to re-petition other lodges for plural membership.

CHAPTER II – Grand Lodge Trials

Code 430. PROCEDURE.

Whenever a charge is presented against the Master of a Lodge or officers of the Grand Lodge (pursuant to the protections afforded by Code 402), the procedure shall be as follows:

(a) There shall be filed with the Grand Secretary a written charge specifying the nature of the offense claimed to have been committed, which charge shall be signed by the accuser.

The Grand Secretary shall forthwith bring such charge to the attention of the Grand Master. The Grand Master shall determine sufficiency of the charges, and may determine sham, whereupon he shall report the matter at the next ensuing Annual Communication. If the Grand Master determines the charges be sufficient, he shall thereupon refer it to a committee appointed by him. In his order of reference, the Grand Master shall designate the time and place for a hearing upon said charge before said committee.

(b) The Grand Secretary shall prepare a duly certified copy of the charge and of the order of reference, specifying time and place for hearing and causing same to be served upon the accused, by some Master Mason, at least ten (10) days before the date fixed for hearing. Due return of such service shall be made by the Master Mason making such service by endorsement upon the original charge on file in the office of the Grand Secretary.

(c) At any time on or before the date fixed for the hearing, the accused may appear in person or may appear with or by his counsel, who shall be a Master Mason in good standing, and may object to the sufficiency of the charge, or may file an answer thereto setting forth any matters by way of explanation or extenuation of the offense charged or may interpose a plea of guilty or not guilty. Any objection to the sufficiency of the charge shall be passed upon by majority vote of the committee at the time fixed for the hearing. If plea of guilty be interposed, the taking of testimony shall be unnecessary but the committee may take testimony for the purpose of aiding it in determining the punishment to be recommended.

(d) At the time fixed by order of the Grand Master, as aforesaid, the committee shall convene for the purpose of a hearing. If the charge be held sufficient and plea of not guilty be entered, the hearing shall then proceed, unless continued for good cause shown. Testimony shall be taken orally and transcribed. **2013**

The established rules of evidence recognized in courts of law of the State of New Mexico shall be observed in such hearing as far as possible.

At the conclusion of the hearing, the case may be argued by the accuser, accused or by counsel.

At the conclusion of argument, the accuser and accused, with counsel, shall retire and the committee shall thereupon proceed to deliberate concerning its report.

(e) The committee shall cause a complete and accurate record of all of its proceedings and an accurate transcript of all testimony taken at the hearing to be made. This shall be laid before the Grand Lodge at the next Annual Communication together with its report embodying such findings and recommendations as the committee may deem proper.

(f) At the first session of such Grand Lodge, the report, together with the transcript of the record, shall be referred to the Committee on Jurisprudence who shall review the committee report for conformity and compliance with the Grand Lodge Constitution and Bylaws and provide a report on such to the Grand Lodge. After receiving the report of the Committee on Jurisprudence, the Grand Lodge may take such action as is approved by a majority of the members present.

(g) The provisions of Division V, Chapter I, of these By-Laws, so far as same may be applicable and not in conflict herewith, shall govern and control the hearing and determination of the case both before the Committee appointed by the Grand Master and the Grand Lodge.

(h) Whenever after trial any punishment is imposed, the constituent Lodge of which the delinquent is a member shall be furnished by the Grand Secretary with a statement of the findings and disposition, under seal of the Grand Lodge.