

SUGGESTED TRIAL COMMITTEE PROCEDURE

Following the Statutes is mandatory.

We recognize no two trials are exactly the same.

Trial Committee procedure may vary from Aerie to Aerie.
The following is one *suggested* way of conducting the trial.

IMPORTANT--ENSURE THAT A TRIAL RECORDER IS SET UP WITH TAPE RECORDER AND/OR VIDEO RECORDER. Per Section 63.4(d), “The testimony shall be recorded by a stenographer, court reporter or by the Aerie Secretary in verbatim language, and reduced to a typewritten transcript. If an Appeal is filed with the Grand Tribunal, a transcript in verbatim language shall be filed with the Grand Tribunal.”

“Although either party may make a tape recording of the proceedings at a trial, this right is limited to the extent that its use not be disruptive to the conduct of the trial. The official record, however, is the record authorized by the Aerie Secretary.”
(Opinion No. 767)

Section 63.1(b) “There will be a twenty-five (\$25.00) filing fee to file a Complaint. This fee is to be paid by the accuser to the local Aerie. All fees are to be deposited in the General Fund. If the accusers are the Board of Trustees of the Local Aerie the fee is waived.”

- 1) Convene the trial
 - a. Check members’ cards (Aerie and Auxiliary). The trial cannot be a secret trial—members must be allowed to attend.
“Trial proceedings before a Local Trial Committee should not be conducted in secret and behind closed doors, but should be open to all members in good standing until the case has been finally submitted to it, when it may retire into executive session to decide by secret ballot the guilt or innocence of the Accused.” (Opinion No. 98)
 - b. Non-members who are trial participants can attend the trial, i.e. witnesses, Defense Counsel, outside stenographer.
 - c. Announce the Aerie name and Aerie number.

- d. State the date and time.
 - e. Announce that the trial will be tape recorded, video recorded or a stenographer will take the record.
 - f. Caution all those participating in the trial to identify themselves when they speak and carry on only one conversation at a time for the sake of a clear record.
- 2) Announce the names of the Trial Committee members and the name of the trial recorder.
 - 3) Have the Complaint read and state the names of the Accuser(s) and the Accused. Repeat their names.
 - 4) Announce when and how the charges were delivered to the Accused and if a return receipt was received.
 “Service is effective when mailed, unless some other circumstances show that it was inadequate. The date of mailing is excluded. Service should be made by certified or registered mail to the last known address of the Accused with return receipt, and proof of that service should be placed in the record either by testimony or marking the signature receipt and the certified mail receipt as evidence.” (Appeal No. 1223)
 - 5) Ascertain if both parties are present at the trial.
 - 6) State the Prosecutor’s name and the Defense Counsel’s name, if appropriate.
 - 7) Read the Mediation Settlement Statement received by the Trial Committee Chairman.
 - 8) Ask if there are any challenges to any member of the Trial Committee.
 - a. If there is a challenge, the Trial Committee will go into recess and determine if the member challenged is to be removed.
 - b. If there are three (3) successful challenges to the Trial Committee members and alternates, thus leaving only four (4) remaining members on the Trial committee to hear the trial, then the trial must be recessed until the Worthy President appoints a replacement Trial Committee member.
 - 9) Ask if there are any motions to be made by the Prosecution or Defense (i.e. Motion to sequester witnesses, Motion to Dismiss, Motion to Continue, etc). The Trial Committee will recess to rule on any motions made. (Sequester means the witnesses cannot be in the trial room during questioning. They can only be in there when called to testify.)
 - 10) Allow Opening Statements by the Prosecutor and then the Defense Counsel.

- 11) The Prosecution begins presentation of their evidence.
All witnesses shall be sworn in before testifying. (Section 63.4(f), Statutes)
Ask witnesses if anyone approached them and asked them to alter their testimony.
- 12) Allow cross examination of Prosecution witnesses by the Defense.
- 13) Ask Trial Committee members if they have any questions of the Prosecution witnesses.
- 14) Allow re-cross examination by the Prosecution.
- 15) The Defense begins presentation of their evidence.
Ask witnesses if anyone approached them and asked them to alter their testimony.
- 16) Allow cross examination of Defense witnesses by the Prosecution.
- 17) Ask Trial Committee members if they have any questions of the Defense witnesses.
- 18) Allow re-cross examination by the Defense.
- 19) Ask for Closing Statement by the Prosecution.
- 20) Ask for Closing Statement by the Defense.
- 21) Ask Trial Committee members if they have any questions.
- 22) Adjourn to Executive Session to determine decision on the trial evidence presented at the trial. (Do not consider any information or evidence that was not presented at the trial.)
 - a. The guilt or innocence and sentence of the Accused is determined by the votes of at least three (3) members of the Trial Committee. (A trial must be conducted before no less than five (5) members of the Trial Committee.) Section 63.6 states: The votes of three (3) members of the Committee shall be required to decide the case, and if the Accused shall be found guilty, the sentence shall be fixed by the Trial Committee by the same required vote.”
 - b. The Trial Committee must also determine the sentence if the Accused is found guilty.

Section 63.7 “The Trial Committee shall have the power to impose the following penalties:

- a. A suspension from the Social Rooms and all social functions of the Aerie and Auxiliary or a suspension from membership in the Aerie or

Auxiliary for a specified period of time not to exceed six (6) months,
or

- b. Removal from office. Any officer so removed shall not be eligible to run for or be appointed to office in any Local Aerie or Auxiliary until three (3) regular elections have been held.
 - c. Expulsion from the Order.”
- 23) Reconvene the trial and announce the determination of guilt and penalty, or innocence. “The Trial Committee shall read their decision into the record immediately following the executive session at the conclusion of the trial. The Trial Committee shall also immediately notify the Accuser, the Accused and the Aerie Secretary of the Trial Committee decision.” (Section 63.6, Statutes)
 - 24) The Notice of Appeal shall be ineffectual for any purpose unless filed within thirty (30) days after the Judgment is read at the trial. “The Judgment and Sentence shall be reported to, and entered into the minutes of the Aerie at the first regular meeting after the conclusion of the trial. The written report of the Judgment by the Trial Committee to the Aerie Secretary shall constitute the filing of the Trial Committee Decision and Judgment.” (Section 63.6, Statutes)
 - 25) “The Worthy President and the Aerie shall enforce the Sentence of the Trial Committee without delay, unless an appeal is perfected and Sentence stayed by order of one (1) of the Grand Justices.” (Section 63.8, Statutes)
 - 26) Advise the Accuser and Accused they have 30 days after the judgment is read at the trial to appeal the ruling of the Trial Committee. “An appeal from a decision of a Trial Committee may be taken by any party thereto to the Grand Tribunal by filing a Notice of Appeal, by regular or electronic mail, with the Grand Tribunal, who shall upon receipt give notice to the Aerie Secretary. The Notice of Appeal shall be mailed or electronically transmitted directly to the Secretary of the Grand Tribunal. The Notice of Appeal shall be ineffectual for any purpose unless filed within thirty (30) days after the Trial Committee decision. Every Notice of Appeal shall state the decision from which the appeal was taken, include a copy of the Complaint, the Trial Committee decision and penalty, and specify the

procedural and trial errors alleged to have been committed.” (Section 64.1(a), Statutes)

Section 64.1(b) “There will be a fifty dollar (\$50.00) filing fee to file an appeal from a Local Aerie Trial Committee decision. This fee is to be paid to the Local Aerie by the party filing the appeal. All fees are to be deposited in the general fund. If the appeal is filed by the Board of Trustees of the Local Aerie the fee is waived. The fee will be refunded if the appeal is successful”

- 27) If an appeal is filed with the Grand Tribunal, upon notice to the Aerie Secretary by the Grand Tribunal, the trial recorder (Aerie Secretary, court reporter or stenographer) will have the trial transcript typed out and sent to the Grand Tribunal (Section 63.4(d), Statutes), together with other documents requested in writing by the Grand Tribunal. The transcript must be in verbatim language and identify those speaking by name. The local Aerie shall pay the cost of the original transcript. (Section 63.4(e), Statutes.)
- 28) Adjourn the trial and thank all who participated and the guests for being courteous during the trial.