

Critical Analysis of the LP Judicial Committee (JC) Rules of Appellate Procedure (2026–2030)

Outline of identified issues:

1) Excessive Discretion (Broad, Subjective Powers with Limited Checks)

Section 2.8 (Rejection/Striking of Content)

The JC may, by a vote of only five or more members and "without reaching the merits", reject, refuse to publish, exclude, or strike any written or verbal content (in whole or in part) for a long list of reasons.

Many are highly subjective:

- (b) slanderous, libelous, or defamatory.
- (c) "clearly false in its material factual assertions" (who decides what is "clearly" false?).
- (d) frivolous, dilatory, or filed to harass.
- (e) "language not suitable for a public proceeding" (including profane/obscene/sexually explicit — vague cultural/standards issue).
- (f) conduct/decorum not permitted in a "judicial proceeding."
- Additional catch-alls like (j) failure to comply with rules.

For non-Bylaws-mandated petitions outside convention, the JC can reject the entire petition if "sufficiently egregious." This gives the JC broad gate-keeping power to dismiss cases early based on its own interpretation, with minimal external oversight.

2.6 and 2.7 Executive Sessions

- Petitioner can request closure for privacy; JC "may" grant it.
- LNC can request closure for "legal liability" protection; JC decides after "weigh[ing] the asserted risk against the presumption of openness."

This is subjective balancing with no defined criteria or appeal process.

Section 8.6 (Oral Arguments)

The JC "may in its discretion" offer petitioners/respondents an opportunity to argue orally, "under such rules as the Committee shall specify." It controls timing, format, and whether to allow it at all.

Section 3.3 (Identifying Respondents)

The JC itself identifies "any other member, affiliate, or committee... as likely to be so affected" and treats them as prospective respondents.

This expands (or limits) parties based on the JC's judgment.

2.3 and other sections

General "by leave of the Committee" clauses (e.g., 2.3 — late submissions) allow ad-hoc exceptions without clear standards.

These provisions concentrate significant power in the JC, with vague standards that are difficult to challenge.

2) Potential for Unfair Treatment of Appellate Information / Parties

Asymmetric or Selective Application (2.8)

The JC can strike content from **any** side (petitioner, respondent, amicus) without reaching merits. A motivated majority could selectively suppress evidence or arguments unfavorable to one side while tolerating similar issues from allies. The "frivolous/harass" standard is particularly prone to viewpoint-based enforcement.

Burden of Proof on Submitters (2.4, 2.5)

Petitioners/organizations bear the full burden of proving signer eligibility, organizational authorization, etc. The JC can reject signatures or entire filings if proof is deemed insufficient, creating a high bar that could disadvantage grassroots or less-resourced petitioners.

Timing and Access Issues

- Submissions must generally be received **prior to the hearing** (2.3), except by leave. Late evidence from one side might be excluded arbitrarily.
- Respondents get 7 days (or "promptly" at convention) to respond (6.1), which may be too short for complex cases, especially if the JC controls notification.

Amicus and Public Input (7.1–7.2)

Sustaining members **may** file amicus briefs, but the JC controls publication/redaction (via 2.8) and can limit their impact

Copies are available "upon request," but proactive transparency is not guaranteed.

Petition Requirements (3.2–3.4)

Strict identification and support requirements; the JC can reject for non-compliance (2.8(j)).

Combined with discretionary rejection, this can be used to dismiss valid but imperfectly formatted cases.

Voting and Participation (8.7)

Members absent from the hearing can still vote (up to 10 days later).

This allows decisions based on incomplete information or post-hearing lobbying without real-time scrutiny.

3. Transparency Concerns / Lack of Openness

Default Openness with Easy Exceptions

- Hearings are open to sustaining members for observation (8.3), and oral arguments are in open session (8.5) — *except* as otherwise provided (executive sessions in 2.6/2.7)
- Deliberations are executive session by default unless 2/3 vote for open (8.4). This reduces public accountability for the reasoning process.

Publication and Redaction (2.8, 5.1, 9.3)

- Documents are to be posted publicly (5.1), *unless redacted* under 2.8. The JC controls redactions for many of the subjective reasons listed.
- Decisions must be published (9.3), but preliminary notifications can be oral (9.2), and there is no requirement for detailed written opinions explaining the reasoning or votes.
A bare ruling could suffice, limiting accountability.
- Online system (2.9) is optional and JC-controlled
Could centralize control over visibility.

Limited Public Access During Convention

Procedures accelerate (“promptly”), with potential for in-person arguments (4.2) that may be harder for remote members to follow in real time.

No Strong Appeals or Oversight

The rules do not detail mechanisms for challenging JC procedural decisions, redactions, or rejections beyond the JC itself.

This creates a self-policing body.

Summary of Risks

These rules establish a “presumption of openness” but include numerous broad discretionary carve-outs that a determined JC majority could use to:

- Dismiss or handicap unpopular petitions early.
- Close proceedings or redact materials on subjective grounds.
- Control who participates meaningfully and what evidence the public sees.
- Operate with limited detailed public justification for outcomes.

Particularly problematic areas are 2.8 (rejections), executive session provisions (2.6–2.7), and the relative lack of mandatory detailed written opinions.

While some discretion is necessary for any judicial body (e.g., to handle abuse or privacy), the combination of vague standards, low vote thresholds for exclusion, and weak transparency mandates creates significant risk of unfair or opaque operation.

Reforms could include clearer definitions (e.g., for “frivolous” or “clearly false”), higher vote thresholds for rejections, mandatory reasoned opinions, and stronger presumptions against closed proceedings.