

# BYLAWS

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last amended: October 25, 2024

ACEP  
Association canadienne  
des employés professionnels



CAPE  
Canadian Association  
of Professional Employees

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## **BY-LAW # 1 - USE OF UNIONIZED BUSINESS**

*(ADOPTED JULY 23, 2003)*

- B 1.1. The Association will use competitive unionized businesses for all services when available.

## **BY-LAW # 2 - MEETINGS OF THE NATIONAL EXECUTIVE COMMITTEE**

*(AMENDMENTS ADOPTED BY THE NEC ON JANUARY 26, MAY 31, AND SEPTEMBER 27, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM)*

- B 2.1. Communications and documents distributed to all members of the NEC or of its Sub-committees shall be sent in both official languages.
- B 2.2. The agenda for NEC meetings is established by the President in consultation with the other members of the NEC. Members of the NEC may submit agenda items to the National Office no later than ten (10) working days prior to a regular scheduled meeting.
- B 2.3. All documentation shall be distributed to NEC members five (5) working days prior to a regular scheduled meeting of the NEC, except due to unforeseen circumstances.
- B 2.4. There shall be no regular meetings of the National Executive Committee in the months of July, August and December.
- B 2.5. A special meeting of the National Executive Committee shall be called by the President at the request of any four (4) members of the National Executive Committee. Upon receipt of such request a meeting shall be scheduled as soon as possible.
- B 2.6. Any motion or resolution that is not merely procedural must be available in writing in both official languages before it can be reviewed by the NEC for NEC meetings.
- B 2.7. Minutes of NEC meetings shall include a record of decisions as well as a high-level summary of reports, discussion items, Committees and Sub-Committees updates, action items from previous meetings and key issues. Minutes do not need to reflect the content of debates on motions.
- B 2.8. For the purposes of accessibility and transparency, video recordings from an observer perspective of the proceedings of NEC meetings will be produced and published within a reasonable delay in both official languages;  
that this amendment to the by-laws only comes into force 30 days after its adoption;  
that the NEC will be comprehensive with the possible delays related to the implementation of this bylaw.

## **BY-LAW # 3 - ELECTIONS AND RESOLUTIONS**

*(AMENDMENTS ADOPTED BY THE NEC ON October 25, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM)*

### B 3.1 ELECTIONS AND RESOLUTIONS COMMITTEE

- B 3.1. No later than the end of February of each year, the National Executive Committee (NEC) shall issue a call to all Regular and Pending members asking for volunteers to set up an Elections and Resolutions Committee. The NEC shall confirm the composition of the Committee at its regular meeting in April, which shall endeavour to include at least one member of each bargaining unit represented by the Association. Members of the Elections and Resolutions Committee shall not campaign in support of or against a candidate nor publicly divulge their opinion on a resolution. They shall still be able to exercise their individual right to vote. The Committee shall have the right to revoke the appointment of a Committee member as a result of non-compliance with provisions of these By-Laws pertaining to their responsibilities. Such an action shall require two thirds (2/3) of the votes cast. The NEC replaces the person thus removed with a Regular or Pending member from the same bargaining unit.
- B 3.2. The Elections and Resolutions Committee shall have complete and full jurisdiction over the election process, in accordance with these By-Laws and Constitution. Non-compliance with these By-Laws may result in the nomination of a candidate being revoked by the Committee. Except where otherwise noted in these By-Laws, any decisions made by the Committee shall be the result of a majority vote.
- B 3.3. In accordance with these By-Laws the Elections and Resolutions Committee shall create an election candidate nomination form and, no later than June 1 in an election year, shall issue a call by email and/or other means of communications for candidates for positions to be filled in accordance with Article 15 of the Constitution. The election candidate nomination form shall accompany this notification.
- B 3.4. In accordance with these By-Laws, the Elections and Resolutions Committee shall create a resolution submission form and, no later than June 1 in an election year, shall issue a call by email and/or other means of communications for proposed resolutions. The resolution submission form shall accompany this notification.

### B 3.5 NOMINATIONS

- B 3.5. All nominations to the position of Director shall be supported by one Regular or Pending member of the Association. All nominations to the positions of President and Vice-President shall be supported by ten (10) Regular or Pending members of the Association. In each case, nominations shall not be accompanied by more supporting names than the number required. Any supporting name(s) beyond the required number shall be discarded.
- B 3.6. On the nomination form, candidates shall clearly indicate the following: position sought, name, home department, bargaining unit, personal email address, and telephone number where they can be reached during regular working hours; and the form must be signed. Anyone supporting the nomination of a candidate pursuant to B 3.5 is required to provide the same information and sign the nomination form.
- B 3.7. The nomination form may be provided in print or electronically and accompanied by two pages (8 1/2 x 11) of text using Arial 12 point font or equivalent in which the candidate may provide a biography, his/her reason for running, contact information and a website address. If the candidate does not provide the required documents in both official languages, the Association shall have the presentation document

translated. The candidate shall be allowed five (5) working days to review the translation produced by the Association.

- B 3.8. Completed nomination forms in any format with verifiable signatures shall be received at the National Office no later than September 1st. The National Office shall forthwith verify the information provided and inform the candidate of any missing information within two business days of having received the form provided it was received in advance of the September 1st deadline.

The Elections and Resolutions Committee shall:

- a) verify that all of the information provided complies with the Constitution and By-laws;
- b) confirm the candidate's eligibility no later than September 15th;
- c) ensure that candidates have signed an attestation that they will observe recognized standards of conduct throughout the election campaign both in verbal and written communications; and
- d) ensure that candidates for the position of President have signed an attestation pursuant to By-law 16.5.

#### B 3.9 ELECTIONS CALENDAR AND COUNTING OF BALLOTS

- B 3.9. After consultation with the candidates, the Elections and Resolutions Committee shall organize one public debate for candidates for the position of President and one public debate for candidates for each Vice-President position.
- B 3.10. After consultation with the candidates, the Elections and Resolutions Committee shall either organize one public debate or facilitate a suitable alternative for candidates for all other elected positions.
- B 3.11. Rulings of the Elections and Resolutions Committee may be appealed in respect to:
- a) A decision regarding candidate's material (3.7);
  - b) A decision regarding candidate's eligibility (3.8).

Appeals shall be heard by a sub-committee of the NEC, composed of members who are not candidates or nominees in the current election. The sub-committee may invite a representative of the Elections and Resolutions Committee to provide advice. To reverse a decision made by the Elections and Resolutions Committee, the sub-committee shall require a majority of the votes cast.

- B 3.12. The Elections and Resolutions Committee shall establish an elections schedule. The voting period shall end ten (10) working days after the Annual General Meeting. The counting of votes will take place on the eleventh (11th) working day after the Annual General Meeting. Results shall be announced on the twelfth (12th) working day after the Annual General Meeting.
- B 3.13. Once the Elections and Resolutions Committee has certified the results of the vote, candidates shall be informed and the information shall be posted on the Association's website.
- B 3.14. Candidates shall be granted five (5) working days to appeal the results of an election. The Elections and Resolutions Committee shall investigate the complaint and render its decision within ten (10) working days following receipt of the complaint. The

Elections and Resolutions Committee may decide to do a recount or to take any other measure deemed appropriate in order ensure the transparency, honesty and integrity of the electoral process.

#### B 3.15 RESPONSIBILITY FOR THE VOTING PROCESS

- B 3.15. The National Office is responsible for managing the voting process on resolutions that go to the general membership or to the membership of a bargaining unit, including proposals for changes to the Association's Constitution and By-Laws and ratification votes on a tentative agreement at the bargaining table.
- B 3.16. The National Office is responsible for managing the voting process for the election of national and local officers.

#### B 3.17 GENERAL VOTING PROVISIONS

- B 3.17. Voting, whether for the election of an officer of the Association, for the approval of a resolution or for any other matter, must be organized and carried out in a manner that respects the following values and objectives: fairness, confidentiality, transparency, and independence from the interference of interested parties.
- B 3.18. Members authorized to vote will be entitled to reasonable accommodations if the chosen means for voting proves a barrier to their participation in the voting process.

#### B 3.19 ELECTRONIC VOTING

- B 3.19. Electronic voting means to vote by using a computer or similar electronic device which is connected to the internet and linked to a secure web site designed to provide online voting.
- B 3.20. Voting by telephone is not available.
- B 3.21. The electronic voting instrument will be provided by an independent service provider chosen by the National Office and approved by the Elections and Resolutions Committee.
- B 3.22. The National Office will provide members, on request, with an explanation of how the voting instrument chosen for a vote meets the requirements of By-Law 3.17.
- B 3.23. The National Office will provide the service provider with all information, including membership information, in order to allow the service provider to establish the electronic vote, accept and control online voting, and report on the results of the vote to the Elections and Resolutions Committee.
- B 3.24. Some of the information required:
- a) Information on the date and time of the election;
  - b) Information on when voting will open and close;
  - c) Information which links each bargaining group member to the candidate for whom they are authorized to vote;
  - d) Information on the candidates;
  - e) Information on the membership which allows the service provider to link the member to a voting control number;

- f) Other information as required by the service provider to manage the electronic voting process.

B 3.25. The service provider's system will confirm the web site visitor's right to vote, accept their electronic vote, store the electronic vote until closing time of the poll and then report the results to the Elections and Resolutions Committee.

#### B 3.26 REGULAR MAIL VOTING PROCESS

B 3.26. As an accommodation measure, should a member request a mail-in ballot, the vote shall be cast using the system of "double envelopes". Only envelopes with a ballot inserted in an internal envelope and accompanied in the external envelope with a completed voter registration card signed by the voting member certifying his or her membership status shall be accepted. Any other envelope shall be considered a rejected envelope.

B 3.27. Blank ballots or ballots containing more votes than the maximum number of votes possible or any ballot containing a message or inscription other than the vote shall be considered as a spoiled ballot. Ballots containing fewer votes than the maximum number of votes possible shall be considered as valid.

B 3.28. Only valid ballots shall be used to calculate the percentage of votes cast for each candidate. The Elections and Resolutions Committee will report on the number of spoiled ballots and rejected envelopes.

B 3.29. Only members of the Elections and Resolutions Committee and designated staff shall be authorized to handle and open the envelopes containing the ballots and then handle the ballots.

B 3.30. Ballots shall be kept for thirty (30) working days following confirmation of the results by the Committee.

#### B 3.31 SCRUTINEERS

B 3.31. It is the responsibility of the candidate to advise the Elections and Resolutions Committee of the name of their one (1) scrutineer, in writing, at least five (5) working days prior to the voting deadline.

B 3.32. Scrutineers will be provided with a copy of the voting results and a copy of a report from the service provider confirming steps taken to ensure the accuracy of the results.

B 3.33. Scrutineers appointed for counting of the votes in the case of elections or a resolution shall be reimbursed for their relevant reasonable expenses. Such expenses must receive prior approval from the National Office.

B 3.34. Request for approval shall be submitted by scrutineers at least ten (10) working days before counting of the votes.

B 3.35. Living and travel expenses shall be reimbursed pursuant to rates and terms established in the National Joint Council's Travel Directive. Leave without pay for union affairs shall also be reimbursed, where appropriate.

#### B 3.36 RESOLUTIONS

B 3.36. In accordance with these By-Laws, the Elections and Resolutions Committee will receive resolutions to be discussed at the Annual General Meeting (AGM). A



resolution shall be subject to a vote by the membership of the Association. To pass, it must be approved by a majority of votes cast.

- B 3.37. All resolutions shall be submitted by either ten (10) Regular or Pending members or one local by completing the resolution submission form. Authors of the resolutions shall clearly indicate their name, their home department, bargaining unit and a telephone number where they can be reached during regular working hours, and sign their submission. The resolutions and accompanying remarks shall not exceed a one page (8 1/2 x 11) text using Arial 12 point font or equivalent. The text shall not refer to any list nor mention individuals or locals who are in support of the resolution. If the authors of the resolution do not provide the document in both official languages, the Association shall have the document translated. The authors shall be granted 5 working days to review the translation produced by the Association.
- B 3.38. Resolutions in any text medium format with verifiable signatures shall be received at the National Office. Resolutions must be received ninety (90) days before the AGM. Once resolutions have been received and their admissibility confirmed in consultation with the President, the National Office shall organize a vote concurrent with the elections schedule.
- B 3.39. All resolutions will be reviewed by the Finance Committee for monetary implications.
- B 3.40. If the Finance Committee determines that implementing a resolution will require funds not available in the current budget; it will inform the authors of the resolution and offer them an opportunity to make changes to the resolution before it is sent to the membership. Any changes must be received sixty-five days before the AGM.
- B 3.41. The Finance Committee has the authority to amend any resolution to include a special levy or budget amendment to ensure that the funds are available to implement the resolution.
- B 3.42. Authors of the resolution may delegate one (1) scrutineer to the counting of votes. All other provisions under paragraphs B 3.13 to B 3.38 inclusive shall apply, mutatis mutandis, excluding B 3.16.

#### B 3.43 ELECTIONS AND RESOLUTIONS COMMITTEE REPORT

- B 3.43. After the completion of each annual election cycle, the Elections and Resolutions Committee shall prepare a detailed written report. The report shall be presented by the Chair of the Elections and Resolutions Committee to the National Executive Committee at its regular meeting in January. The report shall include a summary of the activities lead by the Elections and Resolutions Committee over the election year as well as:
- a) the number of nominations received, by position sought, per bargaining unit under By-law 3.5;
  - b) the number of candidates per bargaining unit by position sought who were rejected for failure to comply with the requirements contained in the Constitution and By-laws;
  - c) the reasons why each candidate was rejected;
  - d) any resolutions received;
  - e) any resolutions deemed inadmissible or amended, and the reasons for amendment or inadmissibility;

- f) a summary of any challenges encountered during the election cycle; and
- g) recommendations to ensure these challenges are addressed in the subsequent election year cycle.
- h)

## **BY-LAW # 4 - LOCALS**

*(AMENDMENTS ADOPTED BY THE NEC ON MARCH 22, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM)*

- B 4.1. A Local may choose to receive an annual rebate to finance its activities or to have its expenses paid by CAPE.
- B 4.2. The rebate is paid out once a year, at the written request of the Local to the National Office. A Local wishing to receive a rebate of an amount lower than that provided for by Bylaw 4.3 must specify this in its written request.
- B 4.3. The rebate is paid based on the number EC, TR, LoP, or OPBO dues-paying employees working in that Local according to the table below:
  - 1 - 25 members: \$1,000
  - 26 - 50 members: \$1,500
  - 51 - 75 members: \$2,000
  - 76 - 100 members: \$3,000
  - 101 - 500 members: \$5,000
  - 501 - 1000 members: \$9,500
  - More than 1000 members: \$10,000
- B 4.4. Any Local may apply for additional funds where its annual allotment is insufficient for planned expenses. Such application must be submitted to the NEC before expenses are incurred. The NEC shall consider such application at the meeting immediately following its submission. The Local may not incur additional expenses as long as the NEC has not made a determination on its application.
- B 4.5. Should a Local choose not to receive an annual rebate, its reasonable operating expenses are paid by CAPE. Any outlay in excess of \$500 must be pre-approved by CAPE's National Office.
- B 4.6. Authorized travel to attend meetings or courses offered by the Association are reimbursed by CAPE. CAPE is also responsible for the necessary expenses for the conduct and interpretation in both official languages of the annual general meeting of any Local that submits a written request for such support.

### **B 4.7 FISCAL ACCOUNTABILITY**

- B 4.7. Locals which receive a rebate shall submit to the Association every six (6) months all receipts and supporting documents, except receipts for food or meeting rooms, and an annual financial report with copies of receipts and supporting documents attached. Locals must meet all financial accountability requirements herewith set out prior to issuance of a rebate for the following fiscal year.

## B 4.8 STEWARD TRAINING

- B 4.8. All Stewards shall be required to obtain training on how to perform their role within a Local. The training shall be delivered by the National Office and may include online methods of delivery.

## BY-LAW # 5 - DISCIPLINE

(AMENDMENTS ADOPTED BY THE NEC ON SEPTEMBER 27, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM )

### B 5.1. PURPOSE & SCOPE

5.1.1. The purpose of this By-law is to provide a framework for acceptable conduct and the resolution of disputes between CAPE members. This by-law includes guidelines for acceptable conduct and outlines the process for the handling of complaints of misconduct. This by-law is not intended to govern disputes between CAPE members and CAPE staff or other third-parties.

### B 5.2. DEFINITIONS

B 5.2.1. **“Complaint Manager”** means:

- a) CAPE’s General Counsel; or
- b) another individual who has been delegated as a Complaint Manager by CAPE’s General Counsel.

B 5.2.2. **“Discipline”** means:

- a) an action taken by the NEC to respond to a finding of member misconduct by a Roster Panel;
- b) forms of discipline may include, but are not limited to, reprimand, suspension, sanction, or expulsion.

B 5.2.3. **“Harassment”** means:

- a) engaging in a course of vexatious comment or conduct against a CAPE member that is known or ought reasonably to be known to be unwelcome, including, but not limited to personal harassment, and harassment based on prohibited grounds of discrimination such as race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, and disability.

B 5.2.4. **“Misconduct”** includes, but is not limited to:

- a) violating any provision of CAPE’s Constitution and/or By-laws;
- b) harassment;
- c) attempting or conspiring to raid or decertify CAPE or any locals or bargaining units thereof;
- d) slandering, libeling, or otherwise defaming any CAPE member;
- e) using abusive language or disturbing the peace of any meeting of this Association;

- f) breaching confidentiality by disclosing details of closed session proceedings or personal information relating to other CAPE members or CAPE staff, which includes furnishing a complete or partial list or any information on the membership of this Association or of any Local to any person or persons other than those whose official position entitles them to have such a list;
- g) interfering with the fair and proper conduct of elections, including gaining office through dishonesty or misrepresentation;
- h) fraudulently receiving money due to this Association or any of its Locals or misappropriating the monies of this Association or any of its Locals;
- i) using the name of a Local of this Association or the name of this Association for soliciting funds, advertising and the like, without the consent of the Local concerned or the NEC of this Association respectively; and
- j) deliberately interfering with an official of this Association in the discharge of their duties;

### B 5.3. COMPLAINTS PROCEDURE

- B 5.3.1. A complaint that is made under By-law 5 by a CAPE Member or by motion of the NEC shall be filed with the Complaint Manager by filling out the CAPE Member Complaint Form within six months of the last event complained of.
- B 5.3.2. CAPE's Complaint Manager shall provide the respondent named in a complaint under this By-law with a copy of the complaint normally within ten (10) days of receipt of the complaint.
- B 5.3.3. A respondent may provide a written reply to the Complaint Manager within ten (10) days after being provided with a copy of a complaint under this By-law.
- B 5.3.4. The Complaint Manager shall provide the complainant with a copy of the respondent's reply normally within ten (10) days of receipt of the reply.
- B 5.3.5. A complaint made against the President will be referred to an external third party.

### B 5.4. COMPLAINT SCREENING PROCESS

- B 5.4.1. The NEC shall establish a Member Conduct Roster on a triennial basis, following a recommendation by the General Counsel. The NEC, in establishing the Roster, shall consider the skills and competencies of the candidates, and, where possible, attempt to find some balance across regions and groups.
- B 5.4.2. A Roster Panel, comprised of no more than three (3) individuals, shall be designated from a 12-Member Conduct Roster composed of Regular members who do not concurrently hold office as President, Vice-President, or a member of the NEC. The General Counsel shall be responsible for designating each Roster Panel, in such a manner as to ensure an unbiased consideration of each case.
- B 5.4.3. CAPE's Complaint Manager shall provide a copy of each complaint to the Roster Panel normally within ten (10) days of receipt of the reply or the deadline under this By-law for a respondent to provide a reply, whichever is sooner.
- B 5.4.4. The Roster Panel shall exercise their discretion and may dismiss any complaints which are determined to be frivolous, vexatious, discriminatory, in bad faith, arbitrary, untimely, or have no reasonable prospect of success.

- B 5.4.5. If a complaint is determined to be frivolous, vexatious, discriminatory, or made in bad faith, the Roster Panel may recommend that the matter be referred to the NEC for an assessment of whether the complainant ought to be disciplined.
- B 5.4.6. The Roster Panel shall notify the parties and the Complaint Manager normally within ten (10) days of reaching a decision on complaint screening.
- B 5.4.7. For complaints that are screened in, the notification sent to the parties will outline the next steps, beginning with mediation.

#### B 5.5. MEDIATION

- B 5.5.1. The parties should indicate within ten (10) days of receiving confirmation that the complaint has been screened in whether they wish to participate in mediation.
- B 5.5.2. If the parties are mutually willing to participate in mediation, the Complaint Manager shall endeavour to appoint an external mediator who has expertise in the area within ten (10) days of confirming same.
- B 5.5.3. Mediation should normally be conducted within thirty (30) days of the appointment of a mediator.
- B 5.5.4. CAPE will bear the costs of one mediation session.
- B 5.5.5. If the mediation process is successful, the parties will enter into a resolution agreement. The mediator will submit a copy of the resolution agreement and a mediation outcome report to the Complaint Manager normally within ten (10) working days of the mediation session.

#### B 5.6. INVESTIGATION

- B 5.6.1. If the parties cannot agree to participate in mediation or mediation is not successful, the next step is an investigation. The Complaint Manager has the discretion to designate either a Roster Panel for an internal investigation, or to appoint an external investigator who has expertise in the area. The investigator will be appointed within ten (10) days of confirming same to conduct a fact-finding investigation. In determining whether the investigation will be carried out by an internal or external party, the Complaint Manager will take into account the sensitivity of the allegations and their severity.
- B 5.6.2. The investigation will normally be undertaken and completed within ninety days (90) days of the appointment of an investigator or the referral to the Roster Panel unless delays occur in good faith and no substantial prejudice will result to any person affected by the delay.
- B 5.6.3. After gathering and reviewing all relevant evidence, the investigator or Roster Panel shall provide a written investigation report to the Complaint Manager, which shall include:
  - a) The allegations contained in the complaint;
  - b) The evidence on which the investigator is basing their findings; and
  - c) The investigator or Roster Panel's findings of fact.
- B 5.6.4. Normally within ten (10) days of receiving the investigation report, the Complaint Manager will notify the parties in writing of the outcome of the investigation and provide each party with a copy of the draft investigation report.

- B 5.6.5. Each party will have ten (10) days to provide written submissions on the draft investigation report.
- B 5.6.6. The investigator will finalize the investigation report within ten (10) days of receiving submissions from the parties or after the ten (10) day period described in 5.6.5, whichever occurs first. This report will only include findings of fact.

#### B 5.7. DISCIPLINE (NEC)

- B 5.7.1. Regardless of whether the investigation was concluded by a Roster Panel or an external investigator, a Roster Panel will make written recommendations to the NEC on the disciplinary measures, or lack thereof, that the Panel believes are appropriate. The NEC's final decision should take into account, but need not follow, these recommendations.
- B 5.7.2. Where a Roster Panel provides recommendations for discipline to the NEC, the respondent shall be notified of same and shall have an opportunity to provide submissions to the NEC within ten (10) days of being so notified before a final decision is reached.
- B 5.7.3. The respondent may make submissions regarding discipline either in writing or orally, subject to reasonable page and time limits set at the discretion of the Roster Panel.
- B 5.7.4. After receiving the respondent's submissions, the NEC shall normally make a decision regarding discipline at the next scheduled NEC meeting, and provide such decision in writing to the respondent.

### **BY-LAW # 6 - COMMUNICATION OF ASSOCIATION**

*(ADOPTED JANUARY 22, 2004)*

- B 6.1. No representative may use the name of the Association or their title as a representative of the Association except with respect to the official business of the Association.
- B 6.2. Any statement made by a representative of the Association shall be consistent with the Constitution, By-Laws and policies of the Association.

### **BY-LAW # 7 - COLLECTIVE BARGAINING**

*(ADOPTED FEBRUARY 26, 2004)*

#### B 7.1. COLLECTIVE BARGAINING COMMITTEE

- B 7.1.1. The NEC will strike a Collective Bargaining Committee (CBC).
  - i. The NEC will call for volunteers from the general membership of the appropriate bargaining unit no later than three (3) months prior to the earliest date for notice to bargain. The call for volunteers to negotiate the TR Financial Incentive Program will be made no later than 6 months prior to the expiry of the agreement.
  - ii. Members of the NEC may volunteer to be on the CBC.
  - iii. Volunteers will submit their reasons for wanting to serve on the CBC.

- iv. The NEC will appoint no more than eighteen (18) members to the EC CBC, no more than ten (10) members to the TR CBC and no more than five (5) members to the Library of Parliament (LoP) CBC and office of the Parliamentary Officer (OPBO) CBC.
  - v. The negotiator, as defined in paragraphs 9.2 and 9.12 of the Constitution and paragraph 7.3 of the By-Laws, is an ex officio member of the CBC.
- B 7.1.2. The NEC will endeavour to choose the members of a CBC in a manner that will allow the committee to reflect the demographic and professional composition of the bargaining unit, and negotiate effectively on behalf of the members.
- B 7.1.3. Demographic and professional factors to be considered include the following: gender, years of service, regional representation, departmental representation, occupational interests.
- B 7.1.4. To negotiate effectively on behalf of the members means that the member (1) has taken or is prepared to take the appropriate training offered by the Association, or has served on previous CUPTE, SSEA or CAPE bargaining committees; (2) has a good knowledge of the collective agreement; and (3) is judged capable of making a positive contribution to the bargaining process.
- B 7.1.5. The roles of the CBC are to prepare proposals (positional bargaining) or define problems (interests-based bargaining), select the members of the Collective Bargaining Team, work to an agreement or reject a final offer from the employer.
- B 7.1.6. The preparation of proposals or the definition of problems means exclusively:
- i. To review proposals or problems brought to the committee by the National Office as a result of input from members and research.
  - ii. To refine and select proposals or problems according to the will expressed by the membership and according to recommendations from the professional staff on the CBC.
  - iii. To act upon requests from the negotiator to prepare a proposal or to define a problem.
  - iv. To discuss, then communicate to the bargaining team the impact of contemplated changes to the collective agreement on the working conditions of members.
  - v. On its own initiative, where two-thirds of the CBC including the negotiator agree, the CBC may discuss and add new proposals or problems.
- B 7.1.7. Attendance at CBC meetings in person or otherwise is a requirement. The CBC may ask the NEC to remove from the Committee a member who misses meetings regularly.

## B 7.2. THE COLLECTIVE BARGAINING TEAM

- B 7.2.1. The CBC will apply the criteria enunciated in sub-paragraph 7.1.2 in order to choose the members of the Bargaining Team.
- B 7.2.2. A CBC will select no more than six members for the CBT of the EC bargaining unit or the CBT of the TR bargaining unit, in addition to the negotiator. It may choose up to 2 alternates.

- B 7.2.3. The CBC will select no more than four members for the CBT of the LoP bargaining unit or the CBT of the OPPBO bargaining unit, in addition to the negotiator. It may choose up to two (2) alternates.
- B 7.2.4. The roles of the CBT are exclusively:
- i. To review, discuss and approve bargaining strategies.
  - ii. To negotiate in good faith.
  - iii. To recommend a tentative agreement to the CBC or to recommend rejection of a final offer and referral of outstanding issues to arbitration or conciliation.

#### B 7.3. THE NEGOTIATOR

- B 7.3.1. The negotiator, as defined in paragraphs 9.2 and 9.12 of the Constitution, is a member of the CBC and of the CBT.
- B 7.3.2. The negotiator is responsible for leading the CBC and the CBT.
- B 7.3.3. The negotiator can override a decision of the CBC or of the CBT if the negotiator judges that a decision is arbitrary, discriminatory, in bad faith, detrimental to the interest of the bargaining unit or the Association, or in contravention of the Constitution or By-Laws of the Association. The matter must be discussed with the committee prior to a decision being rendered. Reasons for the override must be provided both to the committee and to the NEC in writing.
- B 7.3.4. The negotiator will chair the meetings of the CBC and of the CBT, according to the rules of order chosen by the Association.
- B 7.3.5. The negotiator will inform the NEC regularly on progress with the preparation and conduct of bargaining.
- B 7.3.6. The negotiator will inform the CBC regularly on bargaining table progress.

#### B 7.4. PROFESSIONAL SERVICES

- B 7.4.1. The National Office is responsible for all technical and professional aspects of collective bargaining including decisions requiring an expert knowledge of labour relations.
- B 7.4.2. The National Office is accountable to the NEC through the office of the President on matters regarding all professional functions related to bargaining.
- B 7.4.3. The National Office will initiate preparations for the bargaining table no later than 5 months prior to the earliest date for notice to bargain.
- B 7.4.4. The National Office carries out research and analysis as requested by the negotiator.

### **BY-LAW # 8 - TRAVEL AND LIVING EXPENSES**

*(ADOPTED FEBRUARY 26, 2004)*

- B 8.1. Reasonable travel and living expenses of members of the NEC, of the Local leadership, of bargaining committees and other committees of the Association shall be reimbursed to allow them to attend meetings of these bodies; authority to travel and an estimate of expenses must receive prior approval from the National Office.



Expenses shall be reimbursed pursuant to rates and terms established in the National Joint Council Travel Directive.

- B 8.2. Where members from outside the National Capital Region wish to attend General Meetings as defined in Articles 27 and 28 of the Constitution, the number of people for whom expenses will be reimbursed shall be determined by the NEC.

### **BY-LAW # 9 - RULES OF PROCEDURE**

*(AMENDMENTS ADOPTED BY THE NEC ON MARCH 22, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM)*

- B 9.1. Meetings of the Association shall be governed by the latest edition of Bourinot's Rules of Order. Additional rules of procedures may be adopted through By-Laws.
- B 9.2. Any member in a meeting may appeal a decision from the Chair, except in cases of interpretations of the Constitution made by the Association's President in accordance with Clause 9.3 of the Constitution.

### **BY-LAW # 10 - RETIRED MEMBERS**

*(ADOPTED NOVEMBER 29, 2011)*

- B 10.1. The National Executive Committee may appoint a retired member of CAPE or its predecessors as a non-voting advisor to any sub-committee of the Association. Only former members who were members in good standing when they left the Association may be appointed.

### **BY-LAW # 11 - SOLEMN DECLARATION**

*(ADOPTED DECEMBER 9, 2010)*

- B 11.1. "I, , having been (elected or appointed) an officer of CAPE, solemnly declare that, for my term of office, I shall abide by and uphold the Constitution and By-Laws of the Canadian Association of Professional Employees. I will faithfully, and to the best of my abilities, fulfill the duties and responsibilities incumbent upon me as an officer and will always keep confidential all internal matters concerning the Association that are brought to my attention. At the completion of my term of office, I will promptly deliver all books, paper, monies or other property of the Association in my possession to my duly elected successor."
- B 11.2. As per clause 18.4 of CAPE's Constitution, the execution of the solemn declaration will consist of reading the declaration, signing the declaration and sending the original signed declaration or a copy to the National Office before January 1st following the election. The original signed declaration must be provided to the National Office no later than five (5) working days prior to the first meeting of the National Executive Committee in January.
- B 11.3. If a member is appointed to the National Executive Committee by the NEC, then the member must provide a signed copy of the declaration to the National Office no later than five (5) working days prior to taking office as a member of the NEC.

- B 11.4. As per clause 21.4 of CAPE's Constitution the execution of the solemn declaration will consist of reading the declaration, signing the declaration and sending the original signed declaration to the National Office before taking office as a local leader.

## **BY-LAW # 12 - LOANS TO MEMBERS**

*(ADOPTED NOVEMBER 29, 2011)*

- B 12.1. Neither, the CAPE National Office, its employees or volunteers, nor a CAPE Local, its executive or members, shall loan any membership monies or other valuables to any member of CAPE or any other party.
- B 12.2. Loan means to lend to someone temporarily, on condition that it be returned or repaid at a later date, a sum of money or other valuable from the CAPE National Office or a CAPE Local.

## **BY-LAW # 13 - CONSTITUTIONAL AMENDMENT PROCESS**

*(ADOPTED DECEMBER 21, 2017)*

### **B 13.1. PETITION TO AMEND THE CONSTITUTION BY ANY REGULAR OR PENDING MEMBER OR LOCAL**

- B 13.1.1. The petitioner shall submit the original petition including the name and contact information of the sponsor to the National Office by postal mail, courier or by hand.
- B 13.1.2. Signatures, as it relates to this By-Law, means an original hand- written signature.
- B 13.1.3. The National Office will provide a receipt to the sponsor(s) of the petition.
- B 13.1.4. The National Office will verify the names on the petition are Regular or Pending Members and ensure the appropriate count of supporters.
- B 13.1.5. The National Office will place the petition on the Agenda of the next monthly meeting of the National Executive (NEC).
- B 13.1.6. The NEC will accept the petition and send the petition to the Constitution and By-Laws Committee (CBC) for review and recommendation.
- B 13.1.7. The CBC will, at its next monthly meeting, place the petition on its Agenda and conduct a review of the petition to determine its impact on CAPE's Constitution and By-Laws. The CBC has 60 days from the date of the CBC meeting where the petition was placed on the agenda to complete the review.
- B 13.1.8. On completion of the review the CBC will return the proposed amendments to the NEC with a recommendation on the amendment's constitutional validity.
- B 13.1.9. The NEC will then vote on the proposed amendment(s) constitutional validity. A majority vote of those present is required for approval. If the proposed amendment is found to be constitutionally valid the NEC will refer the proposed amendment to the membership for a vote.

### B 13.2. PROPOSAL TO AMEND THE CONSTITUTION BY THE NATIONAL EXECUTIVE COMMITTEE

- B 13.2.1. Upon receiving a proposal from a member or members of the NEC, the National Office will place the proposal to amend the Constitution on the agenda of the next monthly meeting of the National Executive Committee (NEC).
- B 13.2.2. The NEC will discuss the proposed amendment to the Constitution and vote on referring the proposed amendment to the Constitution and By-Laws Committee (CBC) for review and recommendation.
- B 13.2.3. The CBC will, at its next monthly meeting, place the NEC's proposed amendment to the Constitution on its agenda, and conduct a review of the proposed amendment to determine its impact on CAPE's Constitution and By-Laws. The CBC has 60 days from the date of the CBC meeting where the proposed amendment was placed on the agenda to complete its review.
- B 13.2.4. On completion of its review the CBC will return the proposed amendment to the NEC with a recommendation on the advisability and constitutional validity.
- B 13.2.5. The NEC will then vote to recommend the proposed amendment to a vote of the membership. A two-thirds vote of those present is required for approval, as per Clause 36.3 of the Constitution.

### B 13.3. EXCEPTIONS

- B 13.3. Refer to Article 15 of the Constitution.

## BY-LAW # 14 - SUSPENSION DUE TO ABSENTEEISM (ADOPTED DECEMBER 14, 2023)

- B 14.1. The objective of this By-Law is to describe the process by which the National Executive Committee (NEC) can suspend a member of the NEC or a member of one of its sub-committees from membership in the NEC itself or one of its sub-committees due to absenteeism from meetings.

### B 14.2. DEFINITIONS

- B 14.2.1. **Suspension** means to deprive an elected or appointed member of the NEC or of a NEC sub-committee of their right to attend meetings or receive information for a specified period of time.
- B 14.2.2. **Absenteeism** is the habitual failure to attend meetings of the NEC or NEC subcommittee.
- B 14.2.3. **Habitual occurrence of absence** for the purpose of this By-Law means:
  - a) The NEC member has missed 3 consecutive regular NEC meetings;
  - or
  - b) The NEC member has missed 3 of the last 4 regular NEC meetings.
  - c) The Member of the NEC subcommittee has missed 3 consecutive regular meetings;

or

- d) The Member of the NEC subcommittee has missed 3 of the last 4 regular NEC subcommittee meetings.

B 14.2.4. NEC members are responsible for informing the President of any long-term absence from the NEC or NEC subcommittee of greater than 30 calendar days. Such periods of extended leave shall not count for the purpose of Bylaw 14.2.3 provided the member has obtained authorization from their Employer for this same period of leave.

#### B 14.3. SUSPENSION PROCESS - NATIONAL EXECUTIVE COMMITTEE (NEC) MEMBER

B 14.3.1. The President shall raise the matter of the absenteeism from NEC meetings with the member in question to understand the reasons for the absences and find a solution to rectify the situation.

If the absences continue to occur, the President, on their own motion or as identified by a NEC member, will place the matter of absenteeism on the agenda of the next monthly NEC meeting.

B 14.3.2. The President will forthwith advise the NEC member in question that the issue of his or her continued absenteeism will be addressed at the next monthly NEC meeting, and invite the NEC member to provide a justification for his or her absences in writing and/or in person at the NEC monthly meeting.

B 14.3.3. At the NEC monthly meeting addressing the absenteeism, the President will:

- a) Speak to the matter identifying the member;
- b) If the NEC member in question is in attendance, invite the member to address The NEC to explain his or her absences;
- c) If written submissions have been provided by the NEC member in question, subject to any privacy concerns, provide copies of the submissions to NEC members in attendance;
- d) If, after considering any justification provided, a suspension is still requested, state the end date of the suspension; and
- e) Call the motion for suspension to be voted on by the NEC.

B 14.3.4. If approved by a 2/3 majority of the NEC, the period of suspension begins immediately.

B 14.3.5. The National Office will advise the NEC member of the suspension in writing.

B 14.3.6. If the motion for suspension is not approved by the NEC, the matter of absenteeism of the NEC member cannot be placed back on the agenda until the 2nd NEC meeting after the meeting in which the vote was taken.

B 14.3.7. If a vote of suspension against a NEC member fails twice, the matter cannot be placed back on the agenda of the NEC for the remainder of the member's term of office.

#### B 14.4. SUSPENSION PROCESS - NEC SUB-COMMITTEE MEMBER

B 14.4.1. The Chair of the NEC sub-committee shall raise the matter of the absenteeism with the member in question to understand the reasons for the absences and find a solution to rectify the situation.

If the absences continue to occur, the Chair of the sub-committee shall inform the President who, in turn, will attempt to resolve the situation.

If the absences still continue to occur thereafter, the Chair of the NEC sub-committee will provide a written recommendation to the President for the suspension of the NEC sub-committee member. The recommendation will include the rationale for and the recommended period of suspension.

The President will then pursue the suspension process, set out in 14.3.2 to 14.3.7 of this By-Law, at the next monthly meeting of the NEC.

#### B 14.5. QUORUM

B 14.5.1. Following a suspension, a suspended member does not count in the calculation of the quorum required for meetings of the NEC or of a sub-committee.

#### B 14.6. SUSPENSION PERIOD

B 14.6.1. Suspensions from membership in the NEC itself or one of its sub-committees will range from 3 months to 12 months in length. In determining the length of suspension to be imposed, aggravating and mitigating factors will be considered.

#### B 14.7. TERMINATION OF A SUSPENSION

B 14.7.1. A suspension from the NEC itself or one of its sub-committees ends upon the earliest of the following events:

- a) the date of expiry of the imposed suspension;
- b) the date of expiry of the member's term of office;
- c) the effective date of the member's removal from office in accordance with Article 20 of the Constitution; or
- d) the effective date of the member's resignation from the NEC itself or one of its sub-committees.

### **BY-LAW # 15 - SUSPENSION DUE TO CONFLICT OF INTEREST RELATED TO LITIGATION**

*(ADOPTED NOVEMBER 26, 2021)*

#### B 15.1. SCOPE

B 15.1.1. The objective of this By-law is to describe the process by which the National Executive Committee (NEC) can suspend an elected or appointed member due to a conflict of interest related to litigation.

B 15.1.2. For the purpose of this By-law, it is presumed that when an elected or appointed member is actively engaged in litigation against CAPE, the member is not able to hold the interests of CAPE ahead of their own personal interest and that this actual, potential and/or perceived conflict of interest between the elected or appointed member and the best interests of the organization is prejudicial to the good order and welfare of CAPE.

B 15.1.3. Nothing in this By-Law precludes the NEC from taking any action under By-law 5 in addition to, or independently of, this By-law.

## B 15.2. DEFINITIONS

B 15.2.1. **Conflict of interest due to litigation** means a conflict of interest resulting from a member who has commenced a legal action and is actively involved in legal proceedings against CAPE. Litigation is considered active until such time as it has been withdrawn or otherwise resolved.

B 15.2.2. **Elected or appointed member** includes a member of the NEC or one of its sub-committees, a member of the Presidents' Council, and/or a member of the Local Leadership Council.

B 15.2.3. **Potentially conflicted member** refers to any elected or appointed member of CAPE who is presumed to be in a conflict of interest due to litigation under this By-law.

B 15.2.4. **Suspension** means to deprive an elected or appointed member of their right to fulfill their role as an elected or appointed member including attending meetings or receiving information for a specified period of time.

## B 15.3. SUSPENSION PROCESS (AMENDED SEPTEMBER 30, 2022)

B 15.3.1. The President, on their own motion or as identified by a NEC member, will place the matter of conflict of interest due to litigation on the agenda of the next monthly NEC meeting.

B 15.3.2. The President will forthwith advise the potentially conflicted member that the issue of his or her conflict of interest due to litigation has been identified and that it will be addressed at the next monthly NEC meeting.

B 15.3.3. The President will invite the potentially conflicted member to provide written and/or in person representations at the NEC monthly meeting to rebut the presumption that he or she is in an actual, potential and/or perceived conflict of interest that is prejudicial to the good order and welfare of CAPE. The President will determine the allowed length for the written and/or in person representations.

B 15.3.4. At the NEC monthly meeting addressing the conflict of interest due to litigation, the President will:

- a) Speak to the matter identifying the member.
- b) If the potentially conflicted member is in attendance, invite the member to address the NEC to explain his or her conflict of interest due to litigation.
- c) If written submissions have been provided by the potentially conflicted member pursuant to By-law 15.3.3, subject to any privacy concerns, provide copies of the submissions to NEC members in attendance.
- d) Begin an in-camera discussion to be held without the presence of the potentially conflicted member as the discussion relates to an active litigation matter.
- e) During the in-camera discussion, inform the NEC members in attendance of any legal opinion obtained and call a motion for the suspension to be voted on by the NEC.

B 15.3.5. If approved by a majority of the NEC, the period of suspension begins immediately.

- B 15.3.6. The National Office will advise the NEC Member of the suspension in writing.
- B 15.3.7. If the motion for suspension identified in By-law 15.3.4 e) is not approved by the NEC, the matter of conflict of interest due to litigation of the potentially conflicted member cannot be placed back on the agenda until the 2nd NEC meeting after the meeting in which the vote was taken.
- B 15.3.8. If a vote of suspension against a potentially conflicted member fails twice, the matter cannot be placed back on the agenda of the NEC for the remainder of the member's term of office or appointment unless substantive new evidence comes to light which would warrant reconsideration by the NEC.

#### B 15.4. QUORUM

- B 15.4.1. Following a suspension, a suspended member does not count in the calculation of the quorum required for the meeting of the NEC to continue.

#### B 15.5. SUSPENSION PERIOD

- B 15.5.1. The suspension is for such time as the litigation against CAPE is active.

#### B 15.6. PRESIDENT AND VICE-PRESIDENT

- B 15.6.1. In the event of a suspension of the President or Vice-President under By- Law 15, the suspension shall be considered as an incapacity under clauses 21.1 and 21.2 of the Constitution.

#### B 15.7. APPEAL

- B 15.7.1. A suspended member may appeal the suspension by providing notice to the President under this section. The suspension shall remain in effect for the duration of the appeal process.
- B 15.7.2. The appeal shall be heard by an independent third-party adjudicator mutually agreed to by the parties.
- B 15.7.3. The third party's mandate shall be limited to making a determination, based on the terms of this By-law, of whether the conflict of interest due to litigation is of such significance as to merit a suspension for the period of time that the litigation is active.
- B 15.7.4. The third party shall be provided with all of the information that was considered by the NEC in making its decision as well as any additional information that is relevant to the determination. The parties shall also be provided with the opportunity to make in person representations to the third party.
- B 15.7.5. The determination made by the third party shall be binding on the parties.

### **BY-LAW # 16 - PRESIDENT'S SALARY AND BENEFITS**

*(ADOPTED APRIL 29, 2022)*

- B 16.1. In the year preceding a Presidential election, the National Office shall provide the NEC with recommendations regarding the selection of an independent compensation consultant tasked with reviewing the financial terms and conditions for the position of President.

- B 16.2. The independent compensation consultant must be a compensation specialist with the necessary experience, knowledge, and resources to conduct this review.
- B 16.3. The independent compensation consultant shall provide recommendations to the NEC for the financial terms and conditions of the President based on the following criteria:  
The financial terms and conditions must:
- a) provide a total compensation package that is competitive and comparable with other similar roles in the labour movement;
  - b) include a salary range composed of a minimum and a maximum with four steps;
  - c) work within the financial realities of the Association;
  - d) attract, for election, experienced and qualified candidates who are focused on the well-being of the Association;
  - e) be structured in a manner that recognizes that the President is not entitled to compensation for all overtime hours worked; and,
  - f) comply with all legislative requirements.
- B 16.4. The financial terms and conditions shall be incorporated into a Standard Employment Contract for approval by the NEC.
- B 16.5. All candidates for President must agree to sign and execute the Standard Employment Contract referred to in by-law 16.4, if elected. Failure to sign the Standard Employment Contract, will disqualify any President-elect from the election.
- B 16.6. A newly elected President will have their salary set at the range minimum in the first year. Their salary will be increased to the next step in each of the successive years of their term of office. A re-elected President will continue to have their salary increased to the next step in the range until their salary is at the range maximum. In the event of an adjustment to the salary range based on a review conducted under this by-law, a re-elected President will be placed at the lowest step in the range that provides for an increase in salary over the President's previous term in office. Once at the maximum of the steps, the President will receive only economic adjustments based on the EC collective agreement for that year.

## **BY-LAW # 17 - ACCESSIBILITY**

*(AMENDMENTS ADOPTED BY THE NEC ON SEPTEMBER 27, 2024; TO BE VOTED ON BY THE MEMBERSHIP AT THE 2024 AGM)*

- B 17.1. The Association is committed to ensuring that members with disabilities can equitably participate in its proceedings and activities. In keeping with this commitment, any by-law, procedure, or practice will be approached with a focus on universal accessibility and inclusivity while maintaining the integrity of the Association's operations. This commitment aligns with legal standards, including the *Accessibility for Ontarians with Disabilities Act (AODA)*, and embraces the principles of disability justice.