

By-Laws

of the

Canadian Association

of

Professional Employees

By-law # 1 - Use of Unionized Businesses (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 (adopted – July 23, 2003)

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 10 working days prior to a regular scheduled meeting.

B 2.3 All documentation shall be distributed to NEC members 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.

By-law # 3 – Elections and resolutions (adopted – December 13, 2007)

Elections and Resolutions Committee

B 3.1 No later than January 15 of each year, the National Executive Committee (NEC) shall issue a call by regular mail 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 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 a nomination form and, no later than June 1 in an election year, shall issue a call by regular mail and/or other means of communications for candidates for positions to be filled in accordance with Article 17 of the Constitution. The nomination form shall accompany this notification.

Nominations

B 3.4 All nominations to a Director's position shall be supported by one (1) 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.

B 3.5 On the nomination form, candidates shall clearly indicate the following: position sought, name, home Department, bargaining unit and telephone number where they can be reached during regular working hours; to be valid, the form must be signed. Anyone supporting the nomination of a candidate pursuant to B 3.4 is required to provide the same information and sign the nomination form.

B 3.6 The nomination form may be 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. Whenever possible the candidate will provide the National Office an electronic version of this document. 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 5 working days to review the translation produced by the Association.

B 3.7 Completed nomination forms in any format with verifiable signatures shall be received at the National Office no later than September 1. The Elections and Resolutions Committee shall verify all information provided and confirm the candidate's eligibility no later than September 15. The Committee shall also ensure that the presentation text submitted by the candidate is free of libel false reports, willful misrepresentations or abusive language. If the Committee is of the opinion that certain elements should be modified, the candidate shall be allowed to do so. If the candidate refuses to do so or does not produce the required modifications within 5 working days after being informed of the Committee's concerns, his or her nomination or text referred to in B 3.6. may be revoked

Elections calendar and counting of ballots

B 3.8 After consultation with the candidates, the Elections and Resolutions Committee shall organize meetings, public debates or other activities or decide to have produced and distribute additional documentation to all members.

B 3.9 Rulings of the Elections and Resolutions Committee may be appealed. 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 3.10 The Committee shall establish an elections schedule which allows for electoral activities to be held until the end of the Annual General Meeting of an election year, followed by a voting period ending 10 working days after the Annual General Meeting. The counting of votes will take place on the 11th working day after the Annual General Meeting. Results shall be announced on the 12th working day after the Annual General Meeting.

B 3.11 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.

B3 .12 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 less votes than the maximum number of votes possible shall be considered as valid.

B 3.13 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 3.14 Individual candidates may delegate one (1) scrutineer to the counting of votes. Only members of the Elections and Resolutions Committee, scrutineers designated by the candidates and staff of the Association whose presence is considered essential by the Committee, shall be authorized to participate in the counting of votes. 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. It is the responsibility of the candidate to advise the Elections and Resolutions Committee of the name of their scrutineer, in writing, at least 5 working days prior to the voting deadline.

B 3.15 Once the Committee has certified the results of the vote, candidates shall be informed and the information shall be posted on the Association's Web Site. Members shall be notified by regular mail.

B 3.16 Ballots shall be kept for 30 working days following confirmation of the results by the Committee.

B 3.17 Candidates shall be granted 15 working days to appeal the results of an election. The Elections and Resolutions Committee shall investigate the complaint and render its decision within 10 working days following receipt of the complaint. The 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.

Resolutions

B 3.18 In accordance with these By-Laws, the Elections and Resolutions Committee shall issue a call by regular mail and /or other means of communications for resolutions each year to be discussed at the Annual General Meeting (AGM). A resolution shall be subject to a postal vote by the membership of the Association to pass, it must be approved by a majority of votes cast.

B 3.19 All resolutions shall be submitted by two (2) Regular or Pending members. 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 signed 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 3.20 Resolutions in any text medium format with verifiable signatures shall be received at the National Office no later than September 1. Once resolutions have been received and their admissibility confirmed in consultation with the President, the Elections and Resolutions Committee shall organize a mail ballot concurrent with the elections schedule.

B 3.21 Authors of the resolution may delegate one (1) scrutineer to the counting of votes. All other provisions under paragraphs B 3.11 to B 3.17 inclusive shall apply, mutatis mutandis.

B 3.22 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. Request for approval shall be submitted by scrutineers at least ten (10) working days before counting of the votes.

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.

By-law # 4 – Locals (adopted – July 23, 2003)

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.

B 4.3 The rebate is paid based on the number of Regular and Pending members of that Local according to the table below.

1 – 25 members: \$250
26 – 50 members: \$500
51 – 75 members: \$750
76 – 100 members: \$1000
101 – 500 members: \$2000
501 – 1000 members: \$3000
1001 – 1500 members: \$4000
1501 – 2000 members: \$5000
2000 plus members: \$6000

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.

B 4.7 Locals which receive a rebate shall submit to the Association an annual financial report with copies of receipts attached.

By-law # 5 – Discipline (adopted – April 28, 2005)

B 5.1 National Executive Committee (NEC), pursuant to clause 6.6 of the Constitution,

shall have the authority to expel, suspend or remove from office any Regular or Pending member who contravenes any provision of these By-Laws or the CAPE Constitution. NEC members shall be removed from office in accordance with Article 18.

B 5.2 A member having committed any of the offenses listed below may be penalized as provided in paragraphs B 5.1 and B 5.3 of this By-Law.

- Violating any provision of the By-Laws and Constitution.
- Instituting, urging or advocating that a member institute action in court against this Association or any of its officers without first exhausting all remedies through appeal within the organization.
- Publishing or circulating among the members false reports or willful misrepresentations.
- Working in the interests of another union against CAPE. However, associating with members, officials or staff of another union is not in itself reason for discipline.
- Slandering, libeling or willfully wronging any member of this Association.
- Using abusive language or disturbing the peace of any meeting of this Association.
- Fraudulently receiving money due to this Association or any of its Locals or misappropriating the monies of this Association or any of its Locals.
- 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.
- 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.
- Deliberately interfering with an official of this Association in the discharge of their duties.

B 5.3 Any written complaint that is forwarded to the NEC within ninety (90) calendar days of the alleged offence or within ninety (90) calendar days of becoming aware of the alleged offence, shall be investigated by a sub-committee comprised of three (3) NEC members. The sub-committee shall meet with the respondent and the complainant separately. The members of the sub-committee shall be chosen by the members of the NEC. If the complaint is against the President, the President shall delegate his/her authority under Section 3 of the Constitution to a member of the NEC who will be chosen by the NEC.

B 5.4 A Local directly affected may request the presence of one of the National Executive Officers at one of their meetings to explain the cause of the suspension action.

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 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 18 members to the EC CBC, no more than 10 members to the TR CBC and no more than 5 members to the Library of Parliament (LoP) 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.

- i. Demographic and professional factors to be considered include the following: gender, years of service, regional representation, departmental representation, occupational interests.
- ii. 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 7.1.3 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 7.1.4 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 7.1.5 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 (CBT)

B 7.2.1 The CBC will choose from among its members the members of the Collective Bargaining Team (CBT). 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 CBT.

B 7.2.2 The CBC will apply the criteria enunciated in Sub-paragraph 7.1.2 in order to choose the members of the Bargaining Team.

B 7.2.3 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 7.2.4 The CBC will select no more than four members for the CBT of the LoP bargaining unit, in addition to the negotiator. It may choose up to 2 alternates.

B 7.2.5 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*

B7.3.1 The negotiator, as defined in paragraphs 9.2 and 9.12 of the Constitution, is a member of the CBC and of the CBT.

B7.3.2 The negotiator is responsible for leading the CBC and the CBT.

B7.3.3 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.

B7.3.4 The negotiator will chair the meetings of the CBC and of the CBT, according to the rules of order chosen by the Association.

B7.3.5 The negotiator will inform the NEC regularly on progress with the preparation and conduct of bargaining.

B7.3.6 The negotiator will inform the CBC regularly on bargaining table progress.

B7.4 *Professional Services*

B7.4.1 The national office is responsible for all technical and professional aspects of collective bargaining including decisions requiring an expert knowledge of labour relations.

B7.4.2 The national office is accountable to the NEC through the office of the President on matters regarding all professional functions related to bargaining.

B7.4.3 The national office will initiate preparations for the bargaining table no later than 5 months prior to the earliest date for notice to bargain.

B7.4.4 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 (adopted February 26, 2004)

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. Two thirds of members present must vote against the Chair's decision for it to be reversed.