

BY-LAWS

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Notes:

1. These By-Laws supersede any previous versions.
2. A date identified below a By-law indicates the date of its last amendment.

BY-LAW # 1 - USE OF UNIONIZED BUSINESS

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

- 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.

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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.

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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.

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BY-LAW # 3 - ELECTIONS AND RESOLUTIONS

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 (ERC). The Elections and Resolutions Committee shall be assisted by an ERC Secretariat, consisting of supporting staff from CAPE's National Office. The NEC shall confirm the composition of the Elections and Resolutions 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 Elections and Resolutions Committee shall have the right to revoke the appointment of an Elections and Resolutions Committee member as a result of absenteeism, as defined under By-law 14.2.2, or non-compliance with provisions of these By-Laws. Such an action shall require two thirds (2/3) of the votes cast. The NEC may replace the person thus removed with a Regular or Pending member from the same bargaining unit.

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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. Except where otherwise noted in these By-Laws, any decisions made by the Elections and Resolutions Committee shall be the result of a majority vote.

AGM 2025

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.

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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.

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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. Nominations may be accompanied by up to two (2) additional supporters. In the event that one or more supporters is determined to be ineligible or their membership status is unverifiable, the additional supporters may be used to fulfill this requirement; otherwise, any supporting name(s) beyond the required number shall be discarded.

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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.

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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, a photo of the candidate, and a website address. If the candidate does not provide the presentation documents in both official languages, the Association shall have the presentation documents translated. The candidate shall be allowed five (5) working days to review the translation produced by the Association.

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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.

AGM 2022

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.

AGM 2024

- 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.

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- B 3.11. 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.

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- B 3.12. 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.

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- B 3.13. 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.

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B 3.14 RESPONSIBILITY FOR THE VOTING PROCESS

- B 3.14. 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 3.15. The National Office is responsible for managing the voting process for the election of national and local officers.

B 3.16 GENERAL VOTING PROVISIONS

- B 3.16. 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 3.17. 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 3.18 ELECTRONIC VOTING

- B 3.18. Voting shall be done electronically. 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.

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- B 3.19. 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 3.20. 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 B 3.16.

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- B 3.21. The National Office will provide the service provider with all information, including membership information required for 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, including:
- 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.

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- B 3.22. 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 3.23 REGULAR MAIL VOTING PROCESS

- B 3.23. 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.

AGM 2021

- B 3.24. 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 3.25. 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 3.26. 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 3.27. Ballots shall be kept for thirty (30) working days following confirmation of the results by the Committee.

B 3.28 SCRUTINEERS

- B 3.28. 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 3.29. 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 3.30. 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 3.31. Request for approval shall be submitted by scrutineers at least ten (10) working days before counting of the votes.
- B 3.32. 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 3.33 RESOLUTIONS

- B 3.33. 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 3.34. All resolutions shall be submitted by either ten (10) Regular or Pending members or by one local by completing the resolution submission form, or by a motion of the NEC. 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 they must sign their submission. Signatures may be physical or electronic. The resolutions and accompanying remarks shall not exceed a one-page (8 1/2 x 11) text using Arial 12-point font or equivalent. Signatures may be provided on a separate page and do not count towards the Resolution page limit. The text shall not refer to any 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 five (5) working days to review the translation produced by the Association.

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- B 3.35. Resolutions in any text medium format with verifiable signatures shall be received by the National Office at the physical or electronic address provided in the call for resolutions. Resolutions must be received ninety (90) days before the AGM.

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B 3.36. The ERC shall review resolutions for form, administrative feasibility, and other issues the ERC determines to be critical to the resolution's viability.

AGM 2025

B 3.37. The ERC shall review all resolutions for compliance with the Constitution and By-Laws in consultation with the President or their delegate.

AGM 2025

B 3.38. 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.

AGM 2025

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 (65) 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 3.12 to B 3.38 inclusive shall apply, mutatis mutandis, excluding B 3.15.

AGM 2025

B 3.43 ELECTION CAMPAIGNS

B 3.43. **General Principles**

B 3.43.1. All election candidates must:

- a. conduct themselves with integrity, honesty, and respect throughout the election process.
- b. promote a fair and democratic election and avoid conduct that could undermine confidence in the process; and
- c. abide by CAPE's Constitution, By-Laws, Policies, and Protocols.

AGM 2025

B 3.44. Campaign Conduct

B 3.44.1. Election campaign content cannot be fraudulent, deceptive, or misleading. It cannot contain commercial solicitation of goods or services, nor can campaign content violate any intellectual property right of another.

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B 3.44.2. Election campaigning that disrupts CAPE meetings, events, or activities is not permitted unless explicitly authorized in writing by the Elections and Resolutions Committee.

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B 3.44.3. Election candidates must not promise or offer incentives, financial or otherwise, in exchange for votes or endorsements.

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B 3.44.4. Election candidates must allow members to unsubscribe from mass emails, campaign texts, and similar campaign communications upon request.

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B 3.44.5. Election candidates are responsible for the conduct of individuals campaigning on their behalf and must ensure their supporters comply with these By-laws.

AGM 2025

B 3.45. Use of Union Resources and Endorsements

B 3.45.1. Election candidates shall not:

- a. employ the logos, letterhead, social media, websites, or other communication tools of CAPE in their campaign material. The use of photographs of candidates participating in CAPE events where union insignia is visible is not a violation of this provision;
- b. use funds provided by CAPE National (e.g. local rebates, direct funding, etc.) for election campaign purposes.
- c. use CAPE assets, or official communication channels (e.g., CAPE email addresses, mailing lists, social media accounts, newsletters, etc.) for election campaign purposes; or
- d. use the services of CAPE staff for election campaign purposes.

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B 3.45.2. CAPE National and Locals shall not endorse candidates in an election.

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B 3.45.3. Any member may express support for a candidate in an election. Any public endorsement by a member of the NEC or a Local President or Vice-President shall contain the following disclaimer:

“This endorsement of candidate(s) in no way implies any endorsement of the candidate(s) by CAPE National, a CAPE local, or by the employees of CAPE.”

AGM 2025

B 3.45.4. Membership lists, if provided for election purposes, shall be made equally available to all candidates and must not be used for purposes unrelated to the election.

AGM 2025

B 3.46. Campaign Materials

B 3.46.1. All campaign materials, including printed, digital, and social media content, must adhere to the principles of fairness, accuracy, and respect.

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B 3.46.2. The ERC reserves the right to remove or request modifications to campaign materials that violate these By-laws.

AGM 2025

B 3.47. Complaints and Enforcement

B 3.47.1. Any member may submit a written complaint regarding an election candidate to the Elections and Resolutions Committee and must include:

- a. the name, phone number, and email address of the complainant;
- b. the name of the candidate alleged to have violated By-law 3;
- c. a detailed description of each allegation, including dates and times; and
- d. any supporting evidence.

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B 3.47.2. Complaints must be submitted within seven (7) calendar days of the date on which the complainant knew or ought to have known of the violation of By-law 3.

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B 3.47.3. Complaints which are deemed by the Elections and Resolutions Committee to be untimely, frivolous, vexatious, bad faith, without merit, or do not disclose facts which, if taken to be true, establish a violation of By-law 3 shall be dismissed by the Elections and Resolutions Committee without investigation.

AGM 2025

B 3.47.4. The Elections and Resolutions Committee shall notify the complainant upon reaching a decision on complaint screening.

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B 3.47.5. The Elections and Resolutions Committee shall conduct the necessary investigation into complaints which are not dismissed under By-law 3.47.3 and provide an opportunity for the respondent to make submissions.

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B 3.47.6. If a violation is found, the Elections and Resolutions Committee may issue a warning, issue an order to rectify, or disqualify the candidate, depending on the severity of the infraction.

AGM 2025

B 3.48. Appeals Procedure

B 3.48.1. No later than July 1st of each year, the NEC shall issue a call to all Regular and Pending members asking for volunteers to set up an Elections Appeals Committee (EAC) consisting of three (3) Regular or Pending members and up to five (5) alternates.

AGM 2025

B 3.48.2. The NEC, in selecting the members of the EAC, shall consider the skills and competencies of the candidates. Members of the NEC or the Elections and Resolutions Committee may not serve on the EAC.

AGM 2025

B 3.48.3. Members of the EAC shall not campaign in support of or against a candidate. They shall still be able to exercise their individual right to vote.

AGM 2025

B 3.48.4. In the event that a member of the EAC is unable to serve due to incapacity or resignation, they shall be replaced with an alternate, selected at random by the ERC Secretariat.

AGM 2025

B 3.48.5. The EAC members shall receive training provided by the ERC Secretariat on CAPE's election By-Laws, processes, and procedures.

AGM 2025

B 3.48.6. Decisions of the Elections and Resolutions Committee may be appealed in respect to:

- a. A decision regarding a candidate's eligibility (3.8); or
- b. A decision regarding a candidate's campaign conduct (3.47).

AGM 2025

B 3.48.7. Any appeal must be filed in writing to the EAC within forty-eight (48) hours of receipt of a decision of the Elections and Resolutions Committee.

AGM 2025

B 3.48.8. Appeals deemed untimely, frivolous, vexatious, without merit, or made in bad faith may be dismissed by the EAC without further investigation. The EAC shall notify the appellant and the Elections and Resolutions Committee upon reaching a decision on appeal screening.

AGM 2025

B 3.48.9. The EAC shall conduct the necessary investigation and render its decision within seven (7) calendar days of receipt of the appeal. The appellant shall have the right to present their case to the EAC via electronic means before a decision is made. The EAC may invite a representative of the Elections and Resolutions Committee to provide information on their decision.

AGM 2025

B 3.48.10. To reverse a decision made by the Elections and Resolutions Committee, the EAC shall require a unanimous decision.

AGM 2025

B 3.48.11. A decision of the EAC shall be final and binding. The EAC will convey the decision to the appellant and inform the Elections and Resolutions Committee who will follow-up, if need be.

AGM 2025

B 3.49 ELECTIONS AND RESOLUTIONS COMMITTEE REPORT

B 3.49. 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 NEC 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.

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BY-LAW # 4 - LOCALS

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.

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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

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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.

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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.

AGM 2021

BY-LAW # 5 - DISCIPLINE

B 5.1. PURPOSE & SCOPE

B 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.

AGM 2024

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.

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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.

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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.

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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.

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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.

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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.

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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.

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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.

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B 5.3.5. A complaint made against the President will be referred to an external third party.

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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.

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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.

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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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

B 5.4.7. For complaints that are screened in, the notification sent to the parties will outline the next steps, beginning with mediation.

AGM 2024

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.

AGM 2024

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.

AGM 2024

B 5.5.3. Mediation should normally be conducted within thirty (30) days of the appointment of a mediator.

AGM 2024

B 5.5.4. CAPE will bear the costs of one mediation session.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

B 5.6.5. Each party will have ten (10) days to provide written submissions on the draft investigation report.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

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.

AGM 2024

BY-LAW # 6 - COMMUNICATION OF ASSOCIATION

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.

PART 1: EC AND TR GROUPS

B 7.1. PURPOSE AND SCOPE

B 7.1.1. The purpose of Part 1 of this By-law is to provide a framework for collective bargaining for the EC and TR groups.

B 7.2. GUIDING PRINCIPLES

B 7.2.1. CAPE shall conduct collective bargaining in an open, democratic, and participatory manner (“Open Bargaining”).

B 7.2.2. Open Bargaining shall ensure members have meaningful opportunities to shape bargaining priorities, observe negotiations, and hold the bargaining team accountable to the collective will of the membership.

B 7.2.3. The process shall be transparent, inclusive, and grounded in solidarity across bargaining units and with other unions.

B 7.3. PHASES OF THE OPEN BARGAINING PROCESS

B 7.3.1. The Open Bargaining process shall consist of the following phases:

B 7.4. ISSUE IDENTIFICATION

B 7.4.1. Member input shall guide the bargaining direction.

B 7.5. MAJORITY CONTRACT SURVEY

B 7.5.1. A bargaining unit-wide survey shall be conducted in accordance with CAPE’s Privacy Policy to identify bargaining priorities.

B 7.6. CREATION OF THE COLLECTIVE BARGAINING COMMITTEE (CBC)

B 7.6.1. A Collective Bargaining Committee (CBC) will be struck from the members of the bargaining unit.

B 7.6.2. The process for striking the CBC will be determined and overseen by the NEC.

B 7.6.3. Members of the NEC may be members of the CBC.

B 7.7. COMPOSITION OF THE CBC

- B 7.7.1. The CBC for the EC group shall be composed of the following members:
- a. up to forty-one (41) EC members elected or appointed to the CBC, including one chair of the CBC
 - b. a lead negotiator, who shall be CAPE's President or delegate
 - c. a staff negotiator, who shall be CAPE's Director of Negotiations and Research or delegate
 - d. a staff research officer
- B 7.7.2. Only the elected or appointed EC members and the lead negotiator shall be voting members of the CBC for the EC group.
- B 7.7.3. The CBC for the TR group shall be composed of the following members:
- a. up to nineteen (19) TR members elected or appointed to the CBC, including one chair of the CBC
 - b. a lead negotiator, who shall be CAPE's Vice-President, TR Group or delegate
 - c. a staff research officer
 - d. The CBC for the TR group may also include a staff negotiator, who shall be CAPE's Director of Negotiations and Research or delegate
- B 7.7.4. Only the elected or appointed TR members and the lead negotiator shall be voting members of the CBC for the TR group.
- B 7.7.5. Prior to commencing their duties, CBC members shall participate in training organized and led by CAPE National's Negotiation and Research team.
- B 7.7.6. The NEC may, by a majority vote, fill vacancies on the CBC.
- NEC February 27, 2026**
- B 7.7.7. The NEC may, by a two-thirds majority vote, remove a member of the CBC for cause. Cause can include, but is not limited to:
- a. Absenteeism
 - b. Failure to fulfill the duties expected of a member of the CBC
 - c. Undermining the bargaining position of the Association

d. Misconduct, as defined in bylaw 5.2.4, relating to their participation in the CBC

NEC February 27, 2026

B 7.7.8. The CBC may request that the NEC remove a member of the CBC for cause, as defined above.

NEC February 27, 2026

B 7.7.9. A member of the CBC who ceases to be a member of the bargaining unit shall cease to be a member of the CBC.

NEC February 27, 2026

B 7.8. POWERS OF THE CBC

B 7.8.1. The CBC shall be responsible for overall coordination of bargaining activities, including:

- a. Overseeing the preparation of bargaining proposals.
- b. Establishing subcommittees, including Article subcommittees, for the purpose of providing recommendations and advice to the CBC.
- c. Entering into a tentative agreement.
- d. Recommending ratification of the tentative agreement to the membership of the bargaining unit.
- e. Informing the NEC and the membership of the bargaining unit that an impasse has been reached and next steps.
- f. Communicating regularly with the NEC and the members of the bargaining unit throughout the bargaining process.

B 7.8.2. CAPE's Negotiation and Research Team shall ensure coordination among subcommittees in consultation with the CBC chair.

B 7.9. CREATION OF ARTICLE SUBCOMMITTEES

B 7.9.1. The CBC may establish Article Subcommittees comprised of members of the CBC and other members of the bargaining unit.

B 7.9.2. Article Subcommittees shall each elect a chairperson, who shall be a member of the CBC.

B 7.9.3. Only CBC members within Article Subcommittees shall be voting members of the Article Subcommittees.

B 7.10. PROPOSAL DEVELOPMENT AND REFINEMENT

B 7.10.1. Article subcommittees and CAPE's Negotiation and Research Team shall be responsible for documenting and researching issues identified in the Majority Contract Survey.

B 7.10.2. CAPE's Negotiation and Research Team shall be responsible for developing, consolidating, and refine bargaining proposals.

B 7.11. COORDINATION WITH OTHER BARGAINING AGENTS

B 7.11.1. CAPE shall seek collaboration and coordination with other bargaining agents representing similar members to advance shared demands and strengthen collective leverage.

B 7.12. RATIFICATION OF BARGAINING PROPOSALS AND DISPUTE RESOLUTION

B 7.12.1. The members of the bargaining unit shall vote electronically on a summary of the bargaining proposals prepared by CAPE's Negotiation and Research Team. This voting period shall be a minimum of 72 hours and shall begin after the bargaining proposals are presented to the members of the bargaining group.

NEC February 27, 2026

B 7.12.2. Prior to sending the notice to bargain, the members of the bargaining group shall vote electronically on the applicable impasse resolution process (e.g., arbitration or conciliation/strike), as determined by governing legislation. This voting period shall be a minimum of 72 hours.

NEC February 27, 2026

B 7.13. NOTICE TO BARGAIN

B 7.13.1. CAPE shall serve notice to bargain in accordance with applicable legislation.

B 7.14. BARGAINING AND NEGOTIATIONS

B 7.14.1. Bargaining sessions will be attended by the CBC.

B 7.14.2. Only the lead negotiator, staff negotiator, or their delegate shall be the spokesperson at the bargaining table.

B 7.15. RATIFICATION OF AGREEMENT

B 7.15.1. Any tentative agreement shall be submitted to the members of the bargaining group for ratification through an electronic vote.

B 7.15.2. The voting period to ratify a tentative agreement shall be open for one (1) week.

B 7.15.3. Ratification of a tentative agreement shall require a simple majority of the votes cast.

PART 2: LOP AND OPBO GROUPS

B 7.16. PURPOSE AND SCOPE

B 7.16.1. The purpose of Part 2 of this By-law is to provide a framework for collective bargaining for the LoP and OBPO groups.

B 7.17. COLLECTIVE BARGAINING COMMITTEE

B 7.17.1. The NEC will strike a Collective Bargaining Committee (CBC).

- a. 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.
- b. Members of the NEC may volunteer to be on the CBC.
- c. Volunteers will submit their reasons for wanting to serve on the CBC.
- d. The NEC will appoint no more than five (5) members to the Library of Parliament (LoP) CBC and Office of the Parliamentary Officer (OPBO) CBC.
- e. The negotiator, as defined in paragraphs 9.2 and 9.12 of the Constitution and By-law 7.19, is an ex officio member of the CBC.

B 7.17.2. 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 7.17.3. Demographic and professional factors to be considered include the following: gender, years of service, regional representation, departmental representation, occupational interests.

B 7.17.4. To negotiate effectively on behalf of the members means that the member:

- a. has taken or is prepared to take the appropriate training offered by the Association, or has served on previous CAPE bargaining committees;
- b. has a good knowledge of the collective agreement; and
- c. is judged capable of making a positive contribution to the bargaining process.

- B 7.17.5. 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 7.17.6. The preparation of proposals or the definition of problems means exclusively:
- a. To review proposals or problems brought to the committee by the National Office as a result of input from members and research.
 - b. 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.
 - c. To act upon requests from the negotiator to prepare a proposal or to define a problem.
 - d. To discuss, then communicate to the bargaining team the impact of contemplated changes to the collective agreement on the working conditions of members.
 - e. 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 7.17.7. 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 7.18. **THE COLLECTIVE BARGAINING TEAM (CBT)**
- B 7.18.1. The CBC will apply the criteria enunciated in sub-paragraph 7.17.4 in order to choose the members of the Collective Bargaining Team (CBT).
- B 7.18.2. The CBC will select no more than four members for the CBT of the LoP bargaining unit or the CBT of the OPBO bargaining unit, in addition to the negotiator. It may choose up to two (2) alternates.
- B 7.18.3. The roles of the CBT are exclusively:
- a. To review, discuss and approve bargaining strategies.
 - b. To negotiate in good faith.
 - c. 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 7.19. **THE NEGOTIATOR**
- B 7.19.1. 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 7.19.2. The negotiator is responsible for leading the CBC and the CBT.
- B 7.19.3. 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 7.19.4. The negotiator will chair the meetings of the CBC and of the CBT, according to the rules of order chosen by the Association.
- B 7.19.5. The negotiator will inform the NEC regularly on progress with the preparation and conduct of bargaining.
- B 7.19.6. The negotiator will inform the CBC regularly on bargaining table progress.
- B 7.20. **PROFESSIONAL SERVICES**
- B 7.20.1. The National Office is responsible for all technical and professional aspects of collective bargaining including decisions requiring an expert knowledge of labour relations.
- B 7.20.2. The National Office is accountable to the NEC through the office of the President on matters regarding all professional functions related to bargaining.
- B 7.20.3. 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 7.20.4. The National Office carries out research and analysis as requested by the negotiator.

BY-LAW # 8 - TRAVEL AND LIVING EXPENSES

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 30 and 32 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

- 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, subject to Article 9.3 of the Constitution.

AGM 2025

BY-LAW # 10 - RETIRED MEMBERS

AGM 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

AGM 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 19.4 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 22.13 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

AGM 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

AGM 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 Article 37.2 of the Constitution.

B 13.3 EXCEPTIONS

- B 13.3. Refer to Article 17 of the Constitution.

BY-LAW # 14 - SUSPENSION DUE TO ABSENTEEISM

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.

AGM 2023

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.

AGM 2023

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.

AGM 2023

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.

AGM 2023

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.

AGM 2023

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.

AGM 2023

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

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.

AGM 2021

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.

AGM 2021

- 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.

AGM 2021

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.

AGM 2021

- 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.

AGM 2021

- 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.

AGM 2021

- 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.

AGM 2021

B 15.3. SUSPENSION PROCESS

- 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.

AGM 2021

- 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.

AGM 2021

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.

AGM 2021

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.

AGM 2021

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

AGM 2021

B 15.3.6. The National Office will advise the NEC Member of the suspension in writing.

AGM 2022

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.

AGM 2022

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.

AGM 2022

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.

AGM 2021

B 15.5. SUSPENSION PERIOD

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

AGM 2021

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.

AGM 2021

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.

AGM 2021

B 15.7.2. The appeal shall be heard by an independent third-party adjudicator mutually agreed to by the parties.

AGM 2021

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.

AGM 2021

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.

AGM 2021

B 15.7.5. The determination made by the third party shall be binding on the parties.

AGM 2021

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

AGM 2025

B 16.1. In the year preceding a Presidential election, the financial terms and conditions outlined in Article 36 of the Constitution shall be incorporated into a Standard Employment Contract for approval by the NEC.

B 16.2. All candidates for President must agree to sign and execute the Standard Employment Contract referred to in By-law 16.1, if elected. Failure to sign the Standard Employment Contract, will disqualify any President-elect from the election.

BY-LAW # 17 - ACCESSIBILITY

AGM 2024

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.

BY-LAW # 18 - REPORTING MEMBERSHIP NUMBERS

AGM 2025

B 18.1. The number of Regular and Pending members in good standing required for a petition under articles 20, 32, and 37 of the Constitution to be successful shall be provided to petitioners upon a written request to the National Office and within a reasonable time frame. This number shall be based on the most accurate and up to date data available.

B 19.1. PURPOSE

- B 19.1.1. The purpose of this By-law is to provide a framework for addressing serious issues within a Local through the imposition of trusteeship by the NEC, where those issues cannot be effectively resolved through ordinary democratic or administrative processes, in order to restore the Local to proper functioning.
- B 19.1.2. The purpose of trusteeship is to protect the interests of CAPE and its members, and to restore a Local's capacity for self-organization and fulfillment of its duties in alignment with CAPE's Constitution, By-Laws and Policies. Trusteeship is not a punitive measure and should be imposed only in cases where the circumstances demand.
- B 19.1.3. Trusteeship is an extraordinary remedy and shall not be used for personal or political purposes, or for any purpose unrelated to the legitimate protection of the Association or its members.

B 19.2. IMPOSITION OF TRUSTEESHIP BY THE NEC

- B 19.2.1. Where the NEC has reasonable and probable grounds to believe that any Local executive is:
 - a. acting contrary to CAPE's Constitution, By-Laws, or Policies of the Association;
 - b. misappropriating funds or engaging in other financial mismanagement;
 - c. attempting or conspiring to raid or decertify CAPE or any Locals or bargaining units thereof;
 - d. engaging in, or counselling members to engage in, strikebreaking or similar activities that undermine the Association in collective bargaining;
 - e. failing to discharge its duties; or
 - f. engaging in any other conduct that may place the Association at risk,the NEC may refer the matter to the Member Conduct Roster for screening and investigation, following the applicable screening and investigation processes in By-law 5.4 and 5.6, respectively.
- B 19.2.2. For greater certainty, "reasonable and probable grounds" requires some evidentiary backing and must be more than mere suspicion. Additionally, trusteeship is intended to address issues with the conduct of a Local executive as a group, rather than individual misconduct.

B 19.3. IMPOSITION OF TRUSTEESHIP AS AN INTERIM MEASURE

- B 19.3.1. Trusteeship may be imposed as an interim measure, only in extraordinary circumstances, where there is a demonstrable, non-trivial risk of serious and imminent harm to the Association or a member of the Association that cannot reasonably be addressed through less intrusive measures.
- B 19.3.2. For greater certainty, “serious harm” refers to harm that is material, significant, and not merely technical or procedural. This may include conduct that is likely to expose the Association or its members to legal, financial, or regulatory liability.
- B 19.3.3. In accordance with By-law 19.3.1, the NEC shall have the power to impose a temporary trusteeship as an interim measure before an investigation can be undertaken or completed, by a two-thirds (2/3) majority of the votes cast at a regular or special NEC meeting.
- B 19.3.4. The period of a temporary trusteeship imposed under By-law 19.3.3 may not exceed sixty-five (65) days without a review and renewal of the NEC’s decision.
- B 19.3.5. If a complaint against a Local Executive that has been placed under temporary trusteeship is screened out under By-law 5.4.4, the temporary trusteeship shall be lifted and the Local Executive placed under temporary trusteeship shall be restored, subject to the Local’s election timeline and term of office for elected officials.

B 19.4. INVESTIGATION

- B 19.4.1. Investigations into allegations of conduct identified under By-law 19.2.1 shall be conducted in accordance with By-law 5.6.
- B 19.4.2. Where an investigation under By-law 5.6 reveals that a Local executive has engaged in conduct identified under By-law 19.2.1, the NEC, by a simple majority of the votes cast at a regular or special NEC meeting, shall have the authority to place the Local under trusteeship.
- B 19.4.3. Where an investigation under By-law 5.6 reveals that a Local executive has not engaged in conduct identified under By-law 19.2.1, no trusteeship shall be imposed. In such a case, any temporary trusteeship imposed under By-law 19.3.3 shall be lifted and the Local Executive placed under temporary trusteeship shall be restored, subject to the Local’s election timeline and term of office for elected officials.
- B 19.4.4. A period of trusteeship imposed under By-law 19.4.2 may not exceed twelve (12) months unless extended by a two-thirds (2/3) majority of the votes cast at a regular or special NEC meeting.
- B 19.4.5. A period of trusteeship may only be extended where it is reasonably necessary to avoid material harm to the Association or its members that cannot reasonably be addressed through less intrusive measures, or where restoring the Local to proper functioning is not otherwise practicable.

B 19.4.6. Prior to lifting a trusteeship imposed under By-law 19.4.2, an election must be held to select a new Local executive.

B 19.5. SELECTION OF TRUSTEE

B 19.5.1. Upon the imposition of a trusteeship, the NEC shall appoint one (1) or more trustees to administer the affairs of the Local.

B 19.5.2. Any trustee appointed under this By-law must be free of any real or apparent conflict of interest and must be a suitable and appropriate choice, as determined by the NEC.

B 19.5.3. A trustee appointed under this By-law shall be required to sign and return to the National Office the Solemn Declaration identified at By-law 11.1 before they can exercise their duties as trustee.

B 19.6. AUTHORITY OF THE TRUSTEE

B 19.6.1. A trustee shall have, as directed by the NEC, the full authority to conduct the affairs of the Local, to receive or disburse its funds, and, in general, may carry out the duties which would otherwise devolve upon any member of the Local executive.

B 19.6.2. In the event that a Local is placed under trusteeship under By-law 19.4.2, members of the Local executive are removed from office, and the Local executive shall be considered vacant. Members of the Local executive placed under trusteeship shall, as soon as possible, turn over to the trustee:

- a. all records, property, and funds of the Local, to be held in trust for the duration of the trusteeship, and
- b. access to any email accounts, websites, social media accounts, or other forms of electronic communication held by or in the name of the Local.

B 19.7. RIGHTS OF MEMBERS UNDER TRUSTEESHIP

B 19.7.1. Whenever a trusteeship is imposed, the National Office shall inform members of the Local being placed under trusteeship as soon as practicable.

B 19.7.2. The matter of trusteeship shall be placed on the agenda of the next Local Annual General Meeting or other regularly scheduled general membership meeting of the Local.

B 19.7.3. A Local having been placed under trusteeship will not independently affect the good standing of the members of the Local Executive.

B 19.7.4. Members of a Local that has been placed under trusteeship remain in good standing and continue to enjoy all of the rights of membership.