

# Revising Your Union's Constitution & By-Laws

Summer 2022

Tarrytown Regional Office

New York State United Teachers





# Revising your Union's Constitution & By- laws

Tarrytown Regional Office  
New York State United Teachers



- These documents – the union constitution and its by-laws – define the principles and rules that govern the local union and establish the rights and responsibilities of union membership.

# Why Revise the Union's Documents?

It may be necessary to periodically update the union's constitution and by-laws to reflect:

- mandates from affiliate partners
- membership categories
- new titles added to the unit
- updated laws and regulations
- local response to law/regulation
- philosophy of leadership
- issues faced by the local that have caused concern



# What's the Difference?

## Constitution

- The Constitution is the policy document. It should be separated into articles that cover the broad principles of the governance of your local.

## By-laws

- By-laws should cover the interpretation and regulation of the policies established in your constitution.
- Under Roberts Rules of Order, by-law changes can be made without a full constitutional amendment provided the by-law is a true interpretation of the article.

# The Constitution addresses the following:

- The name of your local
- The purpose/mission
- Affiliations
- Membership
- Officers and their duties
- Nominations and elections
- Governing Body of the membership and its duties
- Standing committees and chairpersons
- Delegates to NYSUT and other affiliates
- Stipend Positions
- Chapters/Officers
- Protection of rights of members
- Ratification of collective bargaining agreements
- Amendments
- Parliamentary Authority

# The by-laws should cover:

- Dues
- Stipend Rates
- General Membership Meetings / Number, Notice & Quorum
- Election procedures
- Contract Ratification Procedures

# One More Thing...

## Procedures & Policies

- Internal policies and various procedures (e.g., details of election process, payment of stipends, reimbursements, etc.) will facilitate a smooth running local.
- Such policies and procedures should be more fluid and changeable than a local's constitution or even its by-laws.
- Therefore, keeping these systems in a Procedures or Policies Manual is advised. These can then be amended to meet changing conditions more easily by the Executive Board (if this is provided for in the Constitution).

# Local, State, & National Affiliates

- Your local union is affiliated with NYSUT (New York State United Teachers), AFT (American Federation of Teachers) and the NEA (National Education Association).
- Because of these affiliations, your union is required to follow ALL of the requirements of the state and national affiliates.
- **But it is important to remember that your union's desires and needs must factor into the changes that are made to your documents.**

# NYSUT Requirements

---

- Unified Membership with NYSUT and national affiliations;
- Adhere to the requirements of national affiliates;
- Mandates that the local has a “no discrimination” statement in their constitution;
- Mandates that a local will transmit dues in a timely manner;
- Mandates that a local will submit their constitution/bylaws to NYSUT;
- Mandates that the constitution will contain election policy, establishment of dues and protections of their members.

# AFT Requirements

---

- Mandates that no constitution or by-laws can conflict with the constitution of the American Federation of Teachers;
- Mandates language that allows for the “pass through” of dues increases to the affiliates;
- Mandates that each local maintain affiliation with its AFL-CIO state and local labor council;
- Mandates that a local will submit their constitution/by-laws to the AFT;
- Mandates that the constitution provides for regular meetings of an executive board and regular meetings of the general membership;
- Mandates that elections conducted are consistent with the standards developed under Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA<sup>^</sup> Landrum-Griffin) of 1959, as amended.



# NEA Requirements

---

- Mandates due process be included in the by-laws required for any censure, suspension or expulsion of a member from the local;
- Mandates each local shall conduct elections with open nominations, and a secret ballot under the one-person-one-vote principle.



# Language Matters

Keep an eye out for clauses in your collective bargaining agreement that might impact your revisions. Check especially the following:



RECOGNITION CLAUSE



LABOR-MANAGEMENT  
MEETINGS



UNION RIGHTS

# Membership

## Opportunities & Possibilities:

---



- Define “Member in Good Standing”
- Address membership drops and re-entry
- Provide for members on unpaid leave of absence status
- Establish retiree groups
- Tie local union benefits in retirement to length of union membership

# Elections: How & Who

Who must be  
elected and how?

- All officers including any member of the Executive Board.
- Any delegate who votes for officers of a national or intermediate body.
- Officers must be elected directly by secret ballot of the members in good standing.

Elections must be held at least every three years.

# Election Process:

Election Committee  
Notice of Election  
Nominations  
Election

- All members in good standing must be given a reasonable opportunity to nominate candidates of their choice.
- There must be a notice of elections that includes the date, time, place and procedure for nominations. Notice of elections should be mailed to the last known home address of all members
- Every member in good standing is eligible subject to “reasonable qualifications” established in the Union’s Constitution and By-laws that are uniformly imposed. This can include a membership qualification not to exceed two years.

# Let's get started!

*We've got work to do!*



## ***Electing Union Officers Using Remote Electronic Voting Systems***



The Labor-Management Reporting and Disclosure Act (LMRDA) establishes democratic standards for conducting regular elections of union officers and elections of delegates who elect officers. The Office of Labor-Management Standards (OLMS), an agency within the Department of Labor, is responsible for enforcing the LMRDA. The LMRDA requires every local labor organization to elect its officers by secret ballot, and every national, international and intermediate labor organization to elect officers by secret ballot among the members in good standing or by representatives chosen by secret ballot. See 29 U.S.C. 481(a), (b), (d). The LMRDA further requires that adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots, 29 U.S.C. 481(c), and that the ballots and all other records pertaining to the election shall be preserved for one year following the election, 29 U.S.C. 481(e). The LMRDA also gives union members who believe that a violation of the election provisions of the LMRDA has occurred the right to file a complaint with the Secretary of Labor.

### ***Purpose of this compliance tip:***

This guidance has been developed by OLMS to explain how the LMRDA's requirements apply when implementing remote electronic voting systems in union officer elections. The challenges presented in assuring the secrecy and security of remote electronic voting systems have been well-documented in the context of public elections, which Congress used as the model for union elections under the LMRDA.<sup>i</sup> While remote electronic voting has not been widely adopted for public elections, technology to address these challenges has been a matter of extensive study and discussion. Two significant challenges are the tension between maintaining the secrecy of the ballot while ensuring that each eligible member's vote is accurately cast, and ensuring observability for a voting technology that does not necessarily generate "ballots" that can be observed at the "polls" and at their "counting," as the LMRDA provides. Because the technology in this field is evolving, it is difficult to identify definitive solutions that are most likely to permit voting that is in conformance with the LMRDA. Further, new technology is likely to provide additional methods of conducting remote electronic voting consistent with the LMRDA.<sup>ii</sup>

The specific guidance presented here is based on current technology and the characteristics and design elements of remote electronic voting systems that OLMS has reviewed to date. While all remote electronic voting systems must comply with the LMRDA's requirements, it is possible that solutions other than those identified here would also satisfy these requirements. Thus, OLMS will evaluate each electronic voting system that is the subject of a complaint under title IV of the LMRDA on a case-by-case basis to determine whether it meets the requirements of the statute. If you have questions about remote electronic voting systems, OLMS welcomes you to contact us at [olms-public@dol.gov](mailto:olms-public@dol.gov). Moreover, OLMS recognizes that innovative voting technology may be developed that enhances compliance with the requirements of the LMRDA, and OLMS invites such innovative developments to be shared with us, also at [olms-public@dol.gov](mailto:olms-public@dol.gov).

### ***Remote electronic voting systems:***

The LMRDA does not require a particular method or system of voting. Labor organizations may establish their own methods or systems of voting for officer elections as long as they are consistent with the LMRDA. Some labor organizations, in recent years, have chosen to conduct

officer elections using remote electronic voting systems or have expressed interest in using a remote electronic voting system to elect their officers. The term “remote electronic voting systems” is meant to include: (1) electronic voting from remote site personal computers via the Internet; and (2) electronic voting from remote site telephones. It is not meant to include electronic voting machines used for casting votes at polling sites or electronic tabulation systems where votes are cast non-electronically but counted electronically (such as punch card voting or optical scanning systems). As with other voting procedures, remote electronic voting systems may be permissible under the statute so long as they satisfy the LMRDA’s standards.

## **1. Guidance for preserving ballot secrecy:**

LMRDA Section 3(k) defines a secret ballot as: “the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.” 29 U.S.C. 402(k). Several court cases make it clear that the requirement of a secret ballot in union officer elections is to be interpreted strictly. Ballot secrecy requires that no person, including an independent third party, have access to information allowing such person to learn how a particular member cast his or her vote at any time. Moreover, a member’s vote must remain secret after the ballot is cast.

One way to help to insure that ballot secrecy is maintained in an electronic voting system is to avoid creating a connection between a voter’s identity and the vote cast, *i.e.*, voters’ names would never be entered into the system as part of the voting credentials (the term “credentials” in this guidance includes the multiple codes used for various purposes in electronic voting systems, including access codes, log-in codes, confirmation codes, etc.). In this way a voter’s identity could never be linked to his or her vote using information in the system. This can be accomplished by determining voter eligibility prior to mailing the voting credentials and by randomly assigning the credentials to each eligible voter. Once this initial eligibility determination is made and the credentials mailed, there can be no mechanism to void or prevent the casting of ballots by any members who were determined to be eligible. Such a system, however, can present logistical challenges. For example, a union may need to provide replacement credentials to members who have not received or have lost their voting credentials or issue such credentials to newly eligible members. If duplicate credentials or other processes are used to resolve these logistical challenges, all material must be secured when not in use and observers must be given the opportunity to observe the processes employed when using the materials.

Systems should employ proper safeguards to prevent a voter from being able to provide visual proof of the content of his/her vote in order to prevent secrecy violations in the form of coercion or vote buying/selling. For example, the system must not display the voter credential and the content of the vote in such a way that it permits the voter to capture and share the image, nor should lists matching voter credentials and the content of the vote be publicly available.

To the extent that technology is developed for public elections that allows for the inclusion of voter-identifying information in a manner that protects vote secrecy, that technology may also be appropriate for use in union elections.

## **2. Guidance for preserving observer rights:**

Section 401(c) of the LMRDA requires that “adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting

of the ballots.” 29 U.S.C. 481(c). This requirement provides for the essential monitoring that votes were cast by eligible union members and that those votes were accurately tallied. In the context of electronic voting systems, in which the “polls” and “tally” are not visible, assuring the integrity of such systems presents challenges.

The Department’s regulations have permitted the conduct of election by mail ballot, as long as safeguards are followed to protect secrecy and to allow observation of specific stages of the election process, namely, the preparation and mailing of the ballots, their receipt by the counting agency, and the opening and counting of the ballots. 29 CFR 452.97, 107(c). Similar procedures in the context of electronic voting, which permit observation and protect the security of the vote from its casting to its counting, must include:

- a) The opportunity to view the list of members and make eligibility challenges prior to the distribution of voter credentials.
- b) The opportunity to observe the preparation and distribution of voting credentials to be used by members. Observers must be allowed to view the process, but must not be allowed to see the specific voting credentials that are sent to individual members, which must be kept secret.
- c) The opportunity to observe any later distribution of credentials to members who did not receive or who lost credentials. Again, observers must be allowed to view the process, but must not be allowed to see what specific voting credentials are sent to individual members, which must be kept secret.
- d) The use of technology that protects the integrity of the vote from the point when it is cast by the voter through the voting process, such as client-side encryption technology, that runs on the voter’s computer or in conjunction with any computer-telephone integration, rather than on the election server.
- e) The opportunity to observe any steps necessary for the counting of the votes, and any other steps necessary to audit that process.
- f) The use of technology that provides a secure method of independent vote verification that allows the voter or an observer to confirm that the vote was recorded and counted accurately. Safeguards should be employed, however, to prevent such features from presenting secrecy lapses and opportunities for voter coercion. Safeguards that could preserve this aspect of observability without compromising vote secrecy may include:
  - i. Allowing each member to view a printed ballot version of his or her electronic vote, which contains a credential known only to the voter and which is stored in a supervised, secure, observable location. These printed ballots could also be tallied in a supervised, secure, observable location to verify the accuracy of the electronic vote count.
  - ii. Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a non-public list of the electronic votes alongside the credential known only to the voter, stored in a supervised, secure, observable location.
  - iii. Allowing each member to confirm the accuracy or integrity of his or her vote by inspecting a posted list that pairs representations of votes (e.g., as hashes or codes that would allow a voter to know that the vote has not been changed but would not reveal the vote choice itself) alongside voter credentials, or representations of voter credentials.



The electronic voting system should contain mechanisms by which observers can verify, prior to an election, that the system is working properly.

The electronic voting system should include hash chains on the activity logs and the ballot box.

The electronic voting system should be audited by an authorized independent party periodically.

For any electronic voting system, there should be a document or documents that specify the security policy for all systems that will come into contact with the voter or vote information. Further, every role and its corresponding access should be clearly specified, using mathematical descriptions where applicable. The security policy should also include a risk assessment, threat analysis, and modifications made to mitigate such risks/threats.

### **3. Guidance for preserving records:**

The electronic votes and any paper versions of the electronic votes, and all other paper and electronic records pertaining to the election, including eligibility lists, the voting credentials, the log files, the time stamped software code used to run the electronic voting system, and the ballot tally results, must be preserved for one year.

### **4. Guidance for preserving right to vote:**

An alternative voting method must be provided, upon request, to any member who does not have access to the electronic voting system.

Remote voting must be implemented in a manner that does not create barriers for individuals with accessibility needs.

## **Office of Labor-Management Standards Field Offices**

---

Atlanta, GA	Cleveland, OH	Honolulu, HI	Nashville, TN	New St. Louis, MO
Birmingham, AL	Dallas, TX	Kansas City, MO	Orleans, LA	San Francisco, CA
Boston, MA	Denver, CO	Los Angeles, CA	New York, NY	Seattle, WA
Buffalo, NY	Detroit, MI	Milwaukee, WI	Philadelphia, PA	Tampa, FL
Chicago, IL	Ft. Lauderdale, FL	Minneapolis, MN	Pittsburgh, PA	Washington, DC
Cincinnati, OH				

For the address and telephone number of our field offices, please call 1-866-4-USA-DOL (1-866-487-2365) , or view our online organizational listing at <http://www.dol.gov/olms/contacts/lmskey.htm>.

# **OLMS**

Office of Labor-Management Standards  
U.S. Department of Labor

October 2016 (Revised September 2019)

---

Visit us at [www.olms.dol.gov](http://www.olms.dol.gov)

E-mail us at [olms-public@dol.gov](mailto:olms-public@dol.gov)

Call the DOL National Call Center at **1.866.487.2365**

---

## REFERENCES

<sup>i</sup> Nelson Hastings, et al.: [Security Considerations for Remote Electronic UOCAVA Voting](http://www.nist.gov/itl/vote/upload/NISTIR-7770-feb2011-2.pdf). National Institute of Standards and Technology, NISTIR 7770 (February 2011). *Available at:* <http://www.nist.gov/itl/vote/upload/NISTIR-7770-feb2011-2.pdf>.

<sup>ii</sup> U.S. Vote Foundation: The Future of Voting: End-to-End Verifiable Internet Voting [Specification and Feasibility Assessment Study](https://www.usvotefoundation.org/E2E-VIV) (July 2015). *Available at:* <https://www.usvotefoundation.org/E2E-VIV>.

## ADDITIONAL RESOURCES

[iVote Advisory Committee Final Report](#), Aug. 21, 2015, Utah Lt. Governor Spencer J. Cox

Peter Haynes, “[Online voting, rewards and risks](http://www.atlanticcouncil.org/publications/reports/online-voting-rewards-and-risks),” Atlantic Council, (2014). *Available at:* <http://www.atlanticcouncil.org/publications/reports/online-voting-rewards-and-risks>

Barbara Simons and Douglas W. Jones, “[Internet Voting in the U.S.](http://cacm.acm.org/magazines/2012/10/155536-internet-voting-in-the-us/fulltext)” (2012), 55 *Communications of the ACM* 68, <http://cacm.acm.org/magazines/2012/10/155536-internet-voting-in-the-us/fulltext>.

U.S. Election Assistance Commission (EAC), “[A Survey of Internet Voting](http://www.eac.gov/assets/1/Documents/SIV-FINAL.pdf)” (September 2011), <http://www.eac.gov/assets/1/Documents/SIV-FINAL.pdf>.

David Jefferson, “[If I Can Shop and Bank Online, Why Can’t I Vote Online?](https://www.verifiedvoting.org/resources/internet-voting/vote-online/)” <https://www.verifiedvoting.org/resources/internet-voting/vote-online/>

Association for Computing Machinery (ACM) U.S. Public Policy Council, “Issue Brief: [Internet Voting and Uniformed and Overseas Citizens absentee Voters](http://usacm.acm.org/images/documents/IB_Internet_Voting_UOCAVA.pdf),” [http://usacm.acm.org/images/documents/IB\\_Internet\\_Voting\\_UOCAVA.pdf](http://usacm.acm.org/images/documents/IB_Internet_Voting_UOCAVA.pdf).

Drew Springal, Travis Finkenauer, Zakir Durumeric, Jason Kitcat, Harri Hursti, Maggie MacAlpine, J. Alex Haldermann, “[Security Analysis of the Estonian Internet Voting System](https://estoniaevoting.org/findings/paper/),” *Proceedings of the 21st ACM Conference on Computer and Communications Security* (CCS ’14) (November 2014), <https://estoniaevoting.org/findings/paper/>.



## **Electing Union Officers**

---

U.S. Department of Labor  
Elaine L. Chao, Secretary

Employment Standards Administration  
Victoria A. Lipnic, Assistant Secretary

Office of Labor-Management Standards  
2002

# Contents

<b>1. Unions covered by the election provisions of the acts .....</b>	<b>1</b>
<b>2. Who must be elected and how often .....</b>	<b>2</b>
Offices to Be Filled by Election .....	2
Trusteeships—A Special Case .....	2
Frequency of Elections.....	3
Unexpired Terms of Office .....	3
Questions and Answers .....	3
Summary .....	4
<b>3. Nomination procedures .....</b>	<b>5</b>
Basic Provisions.....	5
Reasonable Notice for Nominations.....	5
How to Notify .....	5
Who May Be Nominated .....	5
Who Is Ineligible.....	6
Questions and Answers .....	7
Summary .....	7
<b>4. Campaign rules .....</b>	<b>8</b>
Basic Provisions.....	8
Distribution of Literature .....	8
Inspection of Membership Lists.....	8
Use of Union and Employer Funds .....	8
Questions and Answers .....	9
Summary .....	9
<b>5. Election procedures .....</b>	<b>10</b>
Basic Procedures .....	10
What Is a Member in Good Standing? .....	10
What Is a Secret Ballot?.....	10
Notice of Election .....	10
Uncontested Elections .....	11
Counting and Keeping the Ballots.....	11
Right of Candidate to Have Observer .....	11
Right of Member to Support Candidate.....	12
Election of National and International Officers at a Convention .....	12
Election of Officers of an Intermediate Body.....	12
Questions and Answers .....	12
Summary .....	13
<b>6. Protesting elections .....</b>	<b>14</b>
Any Member May File a Complaint.....	14
Available Remedies Must Have Been Invoked or Exhausted.....	14
Filing a Complaint with the Secretary .....	14
The Role of the Secretary .....	15
The Role of the Federal District Court .....	15
Validity of Challenged Elections .....	15
Violation of Title III-Trusteeship Standards.....	15
Enforcement Under the CSRA.....	16
Summary.....	16
<b>7. Relation of the bill of rights to the election provisions.....</b>	<b>17</b>
Equal Rights .....	17
Freedom of Speech and Assembly.....	17
Protection of the Right to Sue .....	17
Safeguards Against Improper Disciplinary Action .....	17
Enforcement of the Bill of Rights .....	17
Summary.....	18
<b>8. Application of other laws .....</b>	<b>19</b>
<b>9. Election procedures checklist .....</b>	<b>20</b>
<b>Appendix A. Electing union officers by mail: Suggestions and safeguards.....</b>	<b>21</b>
<b>Appendix B. Excerpts from the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA).....</b>	<b>23</b>
<b>Appendix C. Excerpts from title VII of the Civil Service Reform Act of 1978 — Federal Service Labor-Management Relations .....</b>	<b>28</b>
<b>OLMS Field Offices .....</b>	<b>29</b>

# 1. Unions covered by the election provisions of the acts

Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA or the act) establishes election procedures that must be followed by all unions covered by the act, regardless of whether their constitution and bylaws so provide. The act does not spell out detailed procedures; rather, it sets minimum requirements. Beyond this, elections are to be conducted according to the constitution and bylaws of each union, as long as the union's rules do not conflict with the provisions of the act.

The LMRDA applies primarily to unions that represent employees in private industry. Under sec. 1209 of the Postal Reorganization Act, unions of U.S. Postal Service employees are also subject to the LMRDA. Most unions of other Federal Government employees are subject to the standards of conduct provisions established in 5 U.S.C. 7120 by the Civil Service Reform Act of 1978 (CSRA). Regulations implementing these provisions have been issued by the Assistant Secretary for Employment Standards in Parts 457-459 of Title 29 of the Code of Federal Regulations (29 CFR Parts 457-459). Sec. 458.29 of the regulations applies the substantive election requirements of title IV of the LMRDA to unions subject to the CSRA, but the regulations establish a different method of enforcing these substantive requirements. (For a more detailed discussion of the unions that are covered by the CSRA, see the pamphlet *Rights and Responsibilities under the LMRDA and the CSRA* or *Reports Required under the LMRDA and the CSRA*.)

The election requirements are not applicable to unions that are subject to neither the LMRDA nor the CSRA, such as unions composed entirely of employees of States and subordinate governmental units such as counties and cities.

The election provisions in title IV apply to national and international unions, except federations of these unions such as the AFL-CIO; to intermediate bodies such as general committees, conferences, system boards, joint boards, or joint councils; and to local unions. These provisions, however, do not apply to State and local central bodies, which are excluded from coverage under the act.

A "mixed" local—one that contains both covered and noncovered members—is subject to the act. An international or national union or an intermediate body that has any mixed or covered locals is likewise subject to the act. Further, while the election requirements generally do not apply to a local union composed entirely of government employees not covered by the act, there is an important exception: When such a local participates in the election of officers of its parent union which is subject to the election requirements, then the title IV election procedures must be followed. The same is true in the case of the election of delegates who elect officers of a national or international union or of an intermediate body covered by the act. A local union composed exclusively of city maintenance employees, for instance, would be required to elect, by secret ballot, delegates to a convention of its international union who participate in the election of the international officers, if the international is subject to the act.

Although the act is limited to the activities of persons and organizations within the territorial jurisdiction of the United States, an international union or intermediate body is not exempt from requirements of the act by virtue of the participation of its foreign locals or foreign membership in its elections. For example, votes received from Canadian members in referendum elections held by an international union with headquarters in the United States must have been cast under procedures meeting the requirements of the act, and delegates from Canadian affiliates participating in conventions where officers of the international body are to be elected must have been elected by secret ballot.

## **2. Who must be elected and how often**

### **Offices to Be Filled by Election**

The act requires that all officers be elected. But what does "officer" mean? The act defines the term as "any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body." A constitutional officer is any person holding a position identified as an officer by the constitution and bylaws of the union. All constitutional officers must be elected, even if they do not perform any executive functions. The major union offices (the president, vice president, secretary, treasurer, and members of executive boards or similar governing bodies) must be filled by election. In addition, any person who has executive or policymaking authority or responsibility must be elected even though he may not occupy a position identified as an officer position under the union's constitution and bylaws.

Most shop stewards, for example, are not required to be elected because they normally do not exercise executive functions. However, a shop steward would qualify as an officer (and thus become subject to the act's election requirements) if he were so designated in the union's constitution or if, as a steward, he were a member of the union's executive board. In many cases the business agent or business representative of a union has duties that result in his position falling within the definition of "officer." For example, if he has primary responsibility for the control and management of the union's funds and fiscal operations, he would be considered an officer for purposes of the act.

In addition, any delegate who votes for officers of a national or international union or an intermediate body, such as a conference or a council, must be elected by secret ballot among the members in good standing of the union he represents. If the constitution and bylaws state that one of the functions of a particular elected officer is to be a delegate who votes for officers, a special election of that officer to be a delegate is not necessary if the officer has been elected by secret ballot among the members in good standing of the union he represents.

While all union officers, including members of executive boards or similar governing bodies, must be elected, the act provides a choice for some types of unions between direct secret ballot elections by the members and indirect elections by delegates or officers representing the members.

Thus, officers of a local union must be elected directly by secret ballot among the members in good standing. Officers of a national or international union, on the other hand, may be elected either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot. Officers of an intermediate body may be elected either by secret ballot among the members in good standing of the constituent unions, or by officers of the constituent unions who represent the members and who have been elected by secret ballot.

Professional and other staff members of a union need not be elected if they do not determine policy but are employed only to carry out the union's policy decisions. These persons are subject to the control and direction of the elected officials, and the act does not require such professional or other staff members to be elected.

The act does not require elections for union officials who do not perform executive functions, are not officers under the constitution and bylaws, and are not members of the executive committee or similar governing body of the union. However, the union's constitution and bylaws may require that such positions be filled by election. In this case, the procedures of title IV need not be followed since the holders of these kinds of positions are not considered officers under the act.

### **Trusteeships—A Special Case**

When a union is under trusteeship, it is unlawful under sec. 303 of the act and 29 CFR 458.27 to count votes of delegates of the trustee union in any convention or election of officers of the parent international union or an

intermediate body unless the delegates have been chosen by secret ballot in which all members in good standing of the trustee union were eligible to vote.

The act does not require that a trustee union be represented by delegates at a convention of its parent union. However, it may send delegates with full voting powers if they have been elected by a secret ballot election in which all members in good standing were eligible to vote. The trustee union may also send delegates not elected by secret ballot, but it would be unlawful to count votes cast by these delegates in any election of the parent union officers or on any issue or other resolution presented to the convention.

When a regular election or an election for the purpose of terminating the trusteeship is held during the trusteeship period, the election safeguards of title IV must be applied.

## Frequency of Elections

The maximum period allowable between regular elections of officers is stated explicitly in the act. Elections must be held as often as required by the union's constitution and bylaws, but—

- At least **every 5 years** in all national and international unions;
- At least **every 4 years** in all intermediate bodies such as general committees, system boards, joint boards, joint councils, and conferences; and
- At least **every 3 years** in local unions.

These periods are measured from the date of the last election. These requirements do not prohibit incumbent officers from being reelected at the end of their terms of office.

## Unexpired Terms of Office

Frequently during the term of office, a union official will resign or a vacancy will occur for some other reason, such as the death of the incumbent. The act is silent on the specific point of what should be done in filling the unexpired term of office. A union may therefore fill such a vacancy by using the procedure provided in its constitution and bylaws. The procedure should comply with the general standards of union procedure set forth in title I (the bill of rights) of the LMRDA or 29 CFR 458.2. The provisions of sec. 504 of the LMRDA, which prohibits persons convicted of certain crimes from holding office for up to 13 years after their conviction or release from imprisonment, also apply to the filling of vacancies, as do the prohibitions of 29 CFR 458.36 for unions subject to the CSRA.\*

## Questions and Answers

*May a local union elect its officers every year?* Yes. The act specifies the longest time intervals permitted between elections. They must be held more often if this is provided for in the union's constitution and bylaws.

*May the executive committee appoint delegates to the international convention when one of the delegates' duties is to vote in the election of international officers?* No. They must be elected by secret ballot among the members in good standing.

*Must shop stewards be elected by secret ballot?* Not ordinarily, but they must be elected by secret ballot if they exercise executive functions within the local, if they are designated as officers by the constitution and bylaws, or if they serve on the executive board or a similar governing body.

*Must the chief shop steward be elected by secret ballot?* If he is a constitutional officer or a member of the executive committee by virtue of being chief shop steward, or if he exercises executive functions within the local, he must be elected by secret ballot.

*Must the sergeant-at-arms be elected by secret ballot?* If the holder of this position is designated an officer by

---

\* See the discussion of these provisions on page 6 under Who is Ineligible.

the constitution and bylaws, if he performs any executive functions, or if he is a member of the local union's executive committee by virtue of being sergeant-at-arms, he must be elected by secret ballot.

*May the officers of a local be authorized to represent the local at conventions of the parent body by virtue of their election to office, or must the delegates be elected specifically for each convention?* The constitutional duties of an officer may include representing the local as a delegate to conventions of the parent body. When this is the case and the officer has been nominated and elected in accordance with the requirements of title IV, his election as an officer fulfills the requirement that convention delegates be elected by secret ballot, and no separate election as a delegate is required. Ballots used in the election for such an officer should contain a statement to the effect that the officer, by virtue of his election to office, will serve as a convention delegate.

## **Summary**

- All officers of local unions must be elected by secret ballot among the members in good standing.
- All members of executive boards or similar governing bodies of local unions must be elected by secret ballot among the members in good standing.
- All delegates to conventions of national or international unions or to intermediate bodies must be elected by secret ballot among the members in good standing if the delegates are to vote in the election of officers of the national or international unions or intermediate bodies.
- All officers of national or international unions and of intermediate bodies must be elected either directly by secret ballot among the members or indirectly through representatives elected by secret ballot.
- Professional and other staff members who do not determine policy and who are subject to the control of elected officials need not be elected.
- Officers must be elected at least every 3 years in local unions, at least every 4 years in intermediate bodies, and at least every 5 years in national and international unions.



### 3. Nomination procedures

#### Basic Provisions

The act requires that all members in good standing be given a "reasonable opportunity" to nominate candidates of their own choice. It also requires that the procedures followed in making nominations be in accordance with the union's constitution and bylaws, insofar as these are not inconsistent with the requirement for "reasonable opportunity."

#### Reasonable Notice for Nominations

A union must give reasonable notice of:

- The offices to be filled by election;
- The date and time for submitting nominations;
- The place for submitting nominations; and
- The proper form for submitting nominations, that is, whether written, orally from the floor, or by some other method.

Reasonable notice must be given so that all members in good standing have enough time to nominate candidates of their choice for office.

#### How to Notify

Methods for reasonable notification include:

- Mail notice to each member in good standing within a reasonable time before nominations are held. The act does not prohibit the use of a single notice of both nominations and election if it gives members reasonable time to nominate candidates and also meets the requirement for election notices;
- Timely publication in union newspaper which (1) is reasonably calculated to reach all members in good standing and (2) actually provides reasonable opportunity for nominations to be made; or
- Other means in accordance with the constitution and bylaws of the union which (1) are reasonably calculated to reach all members in good standing and (2) actually provide reasonable opportunity for nominations to be made.

#### Who May Be Nominated

Every member in good standing is eligible to be a candidate and to hold office subject to reasonable qualifications in the union's constitution and bylaws that are uniformly imposed. The factors that must be considered in determining whether a qualification is reasonable include the following:

- Its relation to the legitimate needs and interests of the union;
- Its relation to the demands of the union office to which it is applied;
- The number of members who are disqualified by its application;
- A comparison of the qualification with the requirements for holding office generally prescribed by other unions; and
- The degree of difficulty union members have in meeting the qualification.

For example, it would ordinarily be reasonable for a union to require a candidate to have been a member for a minimum period of time before the election, not to exceed 2 years in the case of a local.

It may also be reasonable for a union to require that candidates attend a specified number of regular meetings during a period immediately preceding an election. However, the Supreme Court in *Steelworkers, Local 3489 v. Uery*, 429 U.S. 305, 94 LRM 2203, 79 L.C. ¶11,806 (1977), held that a rule requiring attendance at 50 percent of local meetings for 3 years preceding an election unless the member was prevented by union activities or working hours was unreasonable. The rule had resulted in 96.5 percent of the members being ineligible for office. The Court concluded that "Congress, in guaranteeing every union member the opportunity

to hold office, subject only to reasonable qualifications, disabled unions from establishing eligibility qualifications as sharply restrictive of the openness of the union political process as is petitioners' attendance rule."

In addition, prescribing eligibility for nomination based on geographic, craft, shift, or similar lines is normally considered reasonable for a position representing such a membership unit.

Qualifications for office that seem reasonable on their face may not be proper if they are applied in an unreasonable or nonuniform manner. An essential element of reasonableness is that members receive adequate advance notice of the requirement. A qualification that is not part of the union's constitution and bylaws or other properly enacted rules may not be the basis for denial of the right to run for office unless it is required by Federal or State law. When a union adopts a new qualification requiring positive action by members (such as a meeting-attendance requirement), the union may not apply the requirement until members have had an adequate opportunity to satisfy it.

It is a violation of the act to disqualify a member in good standing from being a candidate for alleged delay or default in the payment of dues if his dues are checked off by his employer according to his voluntary authorization as provided for in a collective bargaining agreement. However, if during the time allowed for the payment of dues in order to remain in good standing, a member on a dues checkoff system has no earnings from which dues can be withheld, he may be held responsible for paying his dues in order to remain in good standing.

Unreasonable requirements include:

- Payment of a filing fee;
- A declaration of candidacy several months prior to nominations;
- Prior officeholding; and
- Qualifications that limit candidacy to persons of any particular race, color, religion, sex, or national origin and are therefore inconsistent with the Civil Rights Act of 1964.

## **Who Is Ineligible**

Though in general every union member in good standing who meets the union's reasonable and uniform requirements may be a candidate for office, sec. 504(a) of the act specifically bars certain persons from holding office, employment, or any position which involves decision making authority concerning union funds or other property. Persons convicted of "robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III . . ." of the act and other enumerated offenses are not eligible to hold office for up to 13 years after conviction if there has been no imprisonment, or for up to 13 years after the end of imprisonment.

For unions subject to the CSRA, 29 CFR 458.36 incorporates this prohibition and extends it to apply to any person who (1) has been convicted of, or has served any part of a prison term resulting from his conviction for, violating 18 U.S.C. 1001 by making false statements in reports submitted to the Department of Labor, or (2) has been determined by the Assistant Secretary for Employment Standards after administrative proceedings to have willfully committed acts prohibited by the trusteeship provisions of 29 CFR 458.27.

Under certain circumstances, the acts may allow for a shorter bar period of at least 3 years. The prohibitions apply unless citizenship rights taken away are restored or special permission is obtained before the end of the maximum 13-year period from the appropriate court (for unions subject to the LMRDA) or the Assistant Secretary (for unions subject to the CSRA).

Some courts have held that the period of imprisonment includes not only the period of actual confinement in prison but also any period of parole. The U.S. Parole Commission has held, however, that "imprisonment" refers only to the period of actual confinement in prison. A union may, within reasonable limits, adopt stricter standards than those contained in sec. 504(a) by extending the period of disability beyond 13 years or by

barring from office persons who have been convicted of crimes other than those specified. (See [Appendix B](#) for the text of pertinent parts of sec. 504.)

A union's constitution and bylaws may contain reasonable rules for deferring the eligibility of a certain class or classes of members to run for or be elected to office. For example, such rules may apply for a reasonable period of time to apprentices or to new members. If a member is involuntarily compelled to transfer from one local to another, however, a rule requiring a period of prior membership in the new local would not be reasonable if the member is not given credit for his prior period of membership. A union may not limit eligibility for office to a particular branch or segment of the union when the restriction has the effect of depriving members who are not in the branch or segment of the right to become officers of the union.

In certain unions it is customary for members to retain their membership in good standing when they become supervisors. These members may not hold office, however, if their doing so would violate the Labor Management Relations Act, 1947, as amended (the Taft-Hartley Act), which makes it an unfair labor practice for any employer (including persons acting in that capacity) to dominate or interfere with the administration of a union.

## Questions and Answers

*Can nominations and elections be held at the same local union meeting?* Yes, if the union affords all candidates the campaign safeguards in sec. 401(c) of the act, such as sufficient time and opportunity to inspect membership lists in certain instances and to distribute campaign literature. A member may be a candidate for office even if he has not been nominated. Other applicable safeguards in sec. 401 of the act must be provided, including the mailing of a combined nomination and election notice at least 15 days in advance, and the use of a secret ballot.

*Can an officer hold more than one office in a union?* Yes, if this is consistent with the union's constitution and bylaws. Nothing in the act prohibits multiple officeholding.

*Does the act bar from officeholding all persons who have ever been convicted of any crime?* No. The restrictions on officeholding apply only to certain specified crimes for a maximum of 13 years following conviction or imprisonment, whichever is later.

*A union placed a notice of nominations on the last page of its newspaper, among, and indistinguishable from, the classified advertisements. Does this constitute reasonable notification?* No. Prominent display on page one of the paper would clearly be reasonable. At the least, the notice should be placed so that it will be clearly visible at a casual reading of the paper by members of the union to whom the notice is addressed.

## Summary

- A union must provide reasonable opportunity for nominating candidates.
- A union must provide reasonable notice of the offices to be filled and the date, time, place, and proper form for submitting nominations.
- Notice may be by mail, timely publication in the union newspaper, or other effective means.
- All members in good standing may be candidates and hold office, subject to the restrictions of sec. 504(a) or 29 CFR 458.36 and to reasonable qualifications uniformly imposed.
- In general, persons convicted of crimes listed in sec. 504(a) or 29 CFR 458.36 may not hold office for up to 13 years after the period of imprisonment, or up to 13 years after conviction if there was no imprisonment.

## **4. Campaign rules**

### **Basic Provisions**

The act sets forth certain basic standards for union election campaigns. A union may also enforce other rules if they do not conflict with those prescribed in the act.

The act forbids the use of union resources to support a favored candidate for office over any other candidates, and it specifically prohibits the union and its officers from discriminating among candidates with respect to certain procedures and use of facilities.

### **Distribution of Literature**

A union must honor all reasonable requests by a candidate to distribute campaign literature at his expense to all members in good standing, whether the distribution is by mail or some other means. The union may not censor the contents of campaign literature it is requested to distribute. It must treat all candidates fairly. If its distribution of campaign literature for one candidate is without charge, then its distribution for all candidates must be without charge. Treating all candidates the same by refusing to honor any and all reasonable requests for distribution of campaign literature at the candidates' expense is not permitted, however. To avoid charges of unequal treatment among candidates, the union should inform all candidates in advance of the conditions under which it will distribute literature and should promptly advise them of any change in those conditions.

### **Inspection of Membership Lists**

Each bona fide candidate has the right to inspect a list containing the names and last known addresses of all members of the union who are subject to a collective bargaining agreement that requires membership in the union as a condition of employment, such as a union-shop or a maintenance-of-membership agreement. This right to inspect does not include the right to copy and is limited to once within 30 days before the election. In the case of a mail-ballot election, the right to inspect must be granted within the 30-day period before the ballots are mailed to members.

The union is required to refrain from discriminating in favor of, or against, any candidate with respect to the use of lists of union members. A candidate may be allowed to copy lists of union members if the union permits it. If one candidate is allowed to make a copy, however, then all candidates must be allowed to copy the lists if they so desire.

The requirements that a union must comply with reasonable requests for distribution of campaign literature and refrain from discrimination among candidates with respect to the use of membership lists may be enforced before the completion of an election by private legal action by any bona fide candidate in a union that is subject to the LMRDA.

### **Use of Union and Employer Funds**

A union may not use funds received from dues, assessments, or similar levies to promote the candidacy of a particular individual in a union election.

These funds may, however, be used for:

- Notices;
- Factual statements of issues not involving candidates; and
- Other expenses necessary for holding an election.

Employers may not contribute funds, directly or indirectly, in support of the candidacy of any person for union office under any conditions. This prohibition includes any costs incurred by a union or an employer and anything of value contributed by a union or employer.

## Questions and Answers

*May a local union sponsor a debate at a union meeting among all the candidates for a union office?* As long as no candidate is shown preference over another by the union, there is no prohibition against using dues, assessments, or similar levies to pay the normal costs of a meeting at which all candidates for an office are permitted to express their views to the membership.

*Must a union distribute campaign literature for a person who wishes to be nominated to run for office?* Yes. The act uses the terms "candidate" and "bona fide candidate" rather than the term "nominee" in describing the persons entitled to this right. Courts have held that a person may be a candidate for office before he has been nominated to run for that office.

*Does the act prevent a union-financed newspaper or magazine from including a section in which all bona fide candidates may state their case?* The act prohibits the use of certain union funds "to promote the candidacy of any person in an election subject to the provisions of this act." Whether publicity in the union newspaper promotes the candidacy of any person is obviously a matter of fact to be determined in each case. However, if a union newspaper merely makes equal space available to each bona fide candidate running for any particular office, it would be difficult to show that this promoted the candidacy of any particular individual.

## Summary

- A union must honor all reasonable requests to distribute campaign literature at a candidate's expense.
- A union may not use any funds received from dues, assessments, or similar levies to promote any person's candidacy.
- No employer may contribute cash or anything of value to the campaign of any candidate.
- If there is a collective bargaining agreement requiring union membership as a condition of employment, such as a union-shop or maintenance-of-membership agreement, a candidate has the right, once within 30 days before the election, to inspect a list of members subject to the agreement, but not to copy it.
- Privileges extended to one candidate must be extended to all. For example, if literature is distributed at a reduced rate on behalf of one candidate, then all candidates must be granted equal service by the union on the same terms, and if any candidate is allowed to copy membership lists, all candidates must be given the opportunity to do so.

## 5. Election procedures

### Basic Procedures

The act requires that a local union elect its officers by secret ballot among the members in good standing, subject to reasonable rules uniformly imposed.

A national or international union may elect its officers either by secret ballot among the members in good standing (referendum) or at a convention of delegates chosen by secret ballot among the members in good standing. An intermediate body may elect its officers either by secret ballot among the members in good standing or by union officers or delegates elected by secret ballot vote of the members they represent.

Although the act requires that a secret ballot be held among the members in good standing, it does not prescribe in specific detail the election procedures that must be followed. The election must satisfy the "ground rules" specified in the act and, in addition, it must be in accordance with the constitution and bylaws of the union concerned. Reasonably in advance of the election, a union must notify its members of any constitutional amendments relating to the election.

### What Is a Member in Good Standing?

According to the act, a member in good standing of a union is "any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization."

Not all members in good standing may be eligible to vote, however. A union may prescribe reasonable rules and regulations for voting eligibility. For example, a reasonable period of prior membership, such as 6 months or 1 year, may be required, or apprentices may be required to complete their apprenticeships. Temporary deferment of the right to vote may thus be reasonable in some cases, but the creation of permanent or quasi-permanent classes of nonvoting members would normally violate the act.

Furthermore, a member in good standing whose dues have been checked off under a collective bargaining agreement according to his voluntary authorization may not be disqualified from voting (or being a candidate) because of alleged delay or default in the payment of dues. If, however, during the time allowed for the payment of dues in order to remain in good standing, a member on a dues checkoff system has no earnings from which dues can be withheld, he may be held responsible for paying his dues in order to remain in good standing.

### What Is a Secret Ballot?

The act defines a secret ballot as "the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote . . . cast in such a manner that the person expressing such choice cannot be identified with the choice expressed." To secure secrecy at the polls, a union should provide such facilities as curtains, screens, partitions, separate rooms, booths, or separate voting areas. In addition to providing facilities for a secret ballot, the union is responsible for insuring that voters do actually cast their votes in secret.

If the election is to be in the form of a mail referendum, the union must take appropriate steps, such as the use of double envelopes, to insure that the identity of the individual members will not be disclosed as their marked ballots are submitted and counted. (See [Appendix A](#) of this booklet for suggested safeguards in conducting a mail ballot referendum.)

### Notice of Election

A union must mail a notice of election to each member at his last known home address not less than 15 days before the election. The election notice may be combined with the nomination notice, as long as the union

allows reasonable time for nominations. In an election involving balloting by mail, the union must mail the notice of election at least 15 days before the date by which ballots must be mailed back in order to be counted.

Although the act does not prescribe the physical form of the election notice, it must specify the date, time, and place of the election and the offices to be filled and must be in a form reasonably calculated to inform the members of the impending election. If the election is a regular, periodic election of all officers and the notice so indicates, further specification of the offices to be filled is not necessary.

Publication of the notice in a union newspaper is considered adequate notice if the newspaper is mailed to the last known address of each union member and if the union can reasonably expect this form of publication to bring the notice to the members' attention. A conspicuous front-page notice would normally satisfy this requirement. On the other hand, a notice published among, and indistinguishable at a glance from, classified advertisements would normally not be considered reasonably calculated to inform all members. At the very least, the front page of the publication should contain a conspicuous item alerting the member to the notice contained elsewhere in the paper.

### **Uncontested Elections**

An election of officers or delegates in which the act would normally require the use of a secret ballot need not be held by secret ballot when all candidates are unopposed and the following conditions are met:

- The union provides a reasonable opportunity for nominations;
- Write-in votes are not permitted, as evidenced by a provision in the constitution and bylaws, a properly adopted resolution, or established union practice; and
- The union complies with all other provisions of title IV.

### **Counting and Keeping the Ballots**

In every election held under title IV of the act, votes cast by members of each local union must be counted and the results published separately. For example, where officers of a national union or intermediate body are elected directly by members, the votes of each local must be tabulated and published separately to insure that the results of the voting in each local are made known to all interested members. The publication need not show, however, the distribution of votes by sections within the local.

In a local election, the presentation of the election report at a regular local membership meeting, and the entry of the report in the minutes, would normally satisfy the publication requirement if the minutes were available for inspection by members or if copies of the report were made available. In an election involving more than one local, results may be published by notice on appropriate bulletin boards or in a union newspaper, or by any procedure that allows members to obtain the information without unusual effort.

In addition, all ballots, including used, unused, and challenged ballots, envelopes used to return marked ballots in a mail ballot election, tally sheets, and related election documents, must be kept for 1 year by the election officials designated in the constitution and bylaws of the union conducting the election or by the secretary of the union, if no other official is designated.

### **Right of Candidate to Have Observer**

In every election required under the act, each candidate must be permitted to have observers:

- At each polling place; and
- At the counting of the ballots.

Furthermore, a candidate may have as many observers at the counting of the ballots as may be necessary to observe the actual counting and to insure a fair election. Candidates must be permitted to have observers at all phases of the counting and tallying process, including the counting and tallying of the ballots and the totaling, recording, and reporting of tally sheets. In a mail ballot election, candidates must be permitted to have an observer present at the preparation and mailing of the ballots and at their receipt, opening, and counting.

## **Right of Member to Support Candidate**

The act further prescribes that in the exercise of the right to support candidates of his choice, a member may not be subjected to penalty, discipline, or improper interference or reprisal of any kind by the union or any of its members.

## **Election of National and International Officers at a Convention**

An election of officers of a national or international union may be held either by secret ballot of the members or at a convention of delegates elected by secret ballot. Where elections are by secret ballot of the members, the union must comply with all the requirements of the act relating to secret ballot elections. In addition, the union must conduct the election in accordance with its constitution and bylaws, insofar as they are not inconsistent with the election requirements of the act.

As long as officers of a national or international union are elected at a convention of delegates chosen by secret ballot and in accordance with the provisions of a constitution and bylaws that are not inconsistent with the requirements of the act, the manner in which the delegates cast their votes is not subject to special limitations. The act, therefore, does not require that the election of officers at a convention be by secret ballot. However, the delegates participating in such an election of officers must have been elected by secret ballot in accordance with the standards of the act. Nothing prohibits convention delegates from voting by proxy if the constitution and bylaws permit such a practice.

## **Election of Officers of an Intermediate Body**

An election of officers of an intermediate body such as a conference, general committee, joint or system board, or joint council may be either by secret ballot among the members of the unions represented in the intermediate body or by the officers or delegates representing the members. The officers or delegates who represent particular organizations in the election of officers of the intermediate body must have been elected by secret ballot of their respective memberships. Union officers who have been elected by secret ballot and who by virtue of their election to office are also delegates to the intermediate body would qualify to vote in the election of officers of the intermediate body if the constitution and bylaws so provide.

The elections in the intermediate body are to be conducted in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of the act.

## **Questions and Answers**

*Does hand delivery of the notice of the election constitute compliance with the notification provisions of the act?* No. The act specifies that notice of the election must be mailed to the last known home address of all members not less than 15 days before the election. No other method of notification can be substituted for this requirement although additional means of notification may be used.

*If a member of the union is working on a job away from home and is temporarily living away from home, is it permissible to mail the notice of election to him at his temporary address?* Yes. The law does not specify that the last known home address be the permanent home address. If, for example, a construction worker would more likely receive a notice of election while at the rooming house where he lives temporarily than at his permanent home, the notice may be sent to the temporary address. Similarly, if a sailor would more likely receive a notice of election while aboard a ship than at his permanent home, the notice may be sent to the ship.

*May the insertion of a notice of the election in a union newspaper mailed to the last known address of each member at least 15 days before the election be considered to satisfy this part of the act?* Yes, if the announcement is properly displayed so as to attract the attention of the members.

*May a ballot be used as the notice of election?* Yes, if the ballot is mailed to the voter at least 15 days before the date by which ballots must be mailed back in order to be counted, and the instructions for marking and returning the ballot are clear and complete.



*May an international union or intermediate body deny local unions with less than a stated number of members the right to be represented at conventions where officers are elected?* No. The act requires that the officers be elected "by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot." If such a policy denies small local unions the opportunity to participate in the election of officers, it violates the act.

*May a union refuse to accept write-in votes?* Yes, if the refusal is based on a provision in the union's constitution and bylaws, a properly adopted resolution, or an established practice of the union. However, the act's requirement that votes must be counted and the results published implies that the counting and reporting should account for all ballots cast in the election. Any properly marked votes on the ballot must be counted.

*May a union be required to provide for absentee balloting by its members?* Yes. The act provides that each member is entitled to one vote. Under certain conditions, voting in person may place an unusual burden on a significant number of members. There may be a considerable distance between the worksite and the polling place, for example, or the nature of the members' occupations, their hours of work, or the like may make it difficult for them to reach the polling place. If this is the case and additional polling places are not provided, absentee balloting may be necessary to insure compliance with the act's requirement that each member in good standing be entitled to one vote. Specific examples of members who may be entitled to an absentee ballot include sailors at sea, over-the-road truck drivers, construction workers at distant work locations, and musicians and stagehands on tour.

*May the ballots be destroyed or mutilated after they have been counted?* No. They must be kept for 1 year following the election by the election officials of the union. If no such officials have been designated, the union secretary must perform this function.

*May a nonunion member be an election observer?* A candidate is free to select a nonunion member as an observer if there is no union rule or regulation to the contrary.

*Where there is more than one polling place and the polls are open all day long, may more than one observer be used?* Yes. A candidate may have an observer present at each polling place and at each location or table where ballots are counted. There is no objection to having one observer relieve another if the polling hours are long.

## **Summary**

- Local union elections required by the act must be held by secret ballot.
- All members in good standing have the right to vote, subject to reasonable rules, uniformly imposed.
- Rules for voting eligibility must apply to all equally, and special classes of nonvoting members normally may not be created.
- Notice of election must be mailed to each member in good standing at his last known home address not less than 15 days before the election.
- Ballots of each local must be counted and the results published separately.
- All ballots, including used, unused, and challenged ballots, envelopes used to return marked ballots, tally sheets, and related election documents, must be kept for 1 year.
- Each candidate has the right to have observers at each of the polling and tallying places.
- A member may not be penalized, disciplined, or improperly interfered with in the exercise of his right to support the candidate of his choice. Reprisals of any kind are not permitted.
- Additional requirements may be prescribed by the constitution and bylaws of the union if they are not inconsistent with the requirements of the act.
- Officers of intermediate or national and international labor organizations may be elected either directly by secret ballot of members or indirectly by officers of constituent locals or delegates elected by secret ballot for that purpose.
- Officers elected by secret ballot may also be voting delegates to intermediate bodies or national and international unions if the constitution and bylaws so provide.

## 6. Protesting elections

### Any Member May File a Complaint

Any member of a union subject to the LMRDA who has met the requirements set forth below may file a complaint with the Secretary of Labor alleging that the provisions of title IV have been violated in a regular election of officers of his union. (See "[Enforcement under the CSRA](#)," page 16, for complaint procedures in unions subject to the CSRA.) Complaints should be in writing addressed to the Secretary of Labor and filed with the nearest field office of the Office of Labor-Management Standards (OLMS). (A list of OLMS field offices is given at the back of this booklet.) These complaints may also include violations of the election provisions of a union's constitution and bylaws, if the provisions are not inconsistent with the act.

### Available Remedies Must Have Been Invoked or Exhausted

**Timetable for Invoking Internal Remedies.** Before a member files a complaint with the Secretary, one of the two following conditions must exist:

- The member must have exhausted the remedies available to him under the constitution and bylaws of the union and its parent body; or
- The member must have invoked the remedies available to him under the constitution and bylaws of the union and its parent body without obtaining a final decision within 3 calendar months after invoking them.

If the union does not have specific election appeals procedures, the member must invoke whatever appropriate appeals procedure may be available under the constitution and bylaws of the union. If no appropriate appeals procedure is available, he should submit a written protest within a reasonable time after the election. If the member does not become aware of a violation until after the election is completed, he should submit the protest within a reasonable time after he discovers the violation.

**Contents of Internal Complaint.** Because the Secretary's authority to bring a civil action may be limited in certain instances to the charges filed by the member with his union, the member should list in his internal union protest all violations of which he is aware. The complaint should list all violations of the provisions of title IV. It should also include any violations of the provisions of the union constitution and bylaws, when these provisions are consistent with title IV. In addition, if any provisions of the constitution and bylaws are inconsistent with title IV and have been applied during the election, the use of these provisions should be included in the complaint.

### Filing a Complaint with the Secretary

**Timetable of a Complaint to the Secretary.** If a member receives an unfavorable final decision within 3 calendar months after invoking his available internal union remedies, he may file a complaint with the Secretary. The complaint must be received by the Secretary or his authorized agents within 1 calendar month after the member has received the unfavorable final decision.

If a member does not receive a final decision within 3 calendar months after invoking his available internal union remedies, he may do either of the following:

- File a complaint with the Secretary that must be received by the Secretary or his authorized agents within 1 calendar month after the 3-calendar-month period has expired; or
- Wait until he has exhausted the available remedies within his union even though this may take more than 3 calendar months. In this case, if the final decision is unfavorable, the complaint must be received by the Secretary or his authorized agents within 1 calendar month after the member has received the unfavorable final decision.

**Contents of Complaint to the Secretary.** The complaint to the Secretary should contain a brief statement of all facts that the member has alleged in his complaint to the union to be violations of either title IV of the act or the election provisions of his union's constitution and bylaws that are consistent with title IV.

## **The Role of the Secretary**

The Secretary is required to investigate each complaint of a union election violation filed in accordance with the procedure outlined in the paragraphs above. If he finds probable cause to believe that a violation has occurred and has not been remedied, the act provides that he shall bring a civil action against the union in a Federal district court within 60 days after the complaint has been filed.

The Supreme Court has ruled in *Hodgson v. Local Union 6799, Steelworkers Union of America*, 402 U.S. 333, 91 S.Ct. 1841, 77 LRRM 2497, 65 L.C. ¶11,802 (1971) that the Secretary may not allege in his civil action a violation known to the protesting member but not raised in the member's protest to the union. Accordingly, the Secretary's actions are limited to matters that are reasonably within the scope of the member's internal protest or that the member could not have been aware of.

Violations of the election provisions of the act that occurred in the conduct of an election are not grounds for setting aside the election unless they "may have affected the outcome." Therefore, the Secretary will not institute court proceedings unless he finds, after investigating a complaint, probable cause to believe that the violations may have affected the outcome of the election. For example, if one member was improperly denied the right to vote but all election contests were won by more than one vote, the Secretary would not bring a civil action because the violation could not have affected the election outcome for any office.

The Supreme Court has ruled in *Dunlop v. Bachowski*, 421 U.S. 560, 95 S.Ct. 1851, 89 LRRM 2435, 77 L.C. ¶10,872 (1975), that the Secretary must provide the concerned parties with a statement setting forth the basis for his determination not to take action on an election complaint in a particular case. Further, the Supreme Court held that the Secretary's statement and reasons for his determination not to act are subject to limited judicial review to determine whether the Secretary's determination was so irrational as to be "arbitrary and capricious."

## **The Role of the Federal District Court**

In any action brought by the Secretary as described above, if upon a preponderance of evidence after a trial upon the merits, the Federal district court finds—

- An election was not held within the time prescribed by title IV, or
- A violation of title IV provisions may have affected the outcome of an election,

the act provides that the court shall declare the election void, and order a new election conducted under the Secretary's supervision and, insofar as is lawful and practicable, in conformity with the union's constitution and bylaws.

## **Validity of Challenged Elections**

Elections challenged by a member are presumed valid pending a final decision. The act provides that, in the interim, the affairs of the union shall be conducted by the elected officers or in whatever other manner the union's constitution and bylaws provide. After a suit is filed by the Secretary in a Federal district court, however, the court has power to take appropriate action to preserve the union's assets.

## **Violation of Title III-Trusteeship Standards**

When a violation of the provision for election of delegates in unions under trusteeship is alleged, the procedure for complaint is governed by sec. 304 of the act. In some cases the complaint procedures under title IV of the act may also apply—for example, when a trusteeship has been imposed over part of the local union's functions, but an election of voting delegates to the parent union's convention is held in the local union. Sec. 304 directs the Secretary, upon the filing of a written complaint by any union member or subordinate union under trusteeship, to investigate alleged violations. If he finds probable cause to believe a violation has occurred and has not been remedied, he shall bring a civil action in a U.S. district court for appropriate relief (including injunctions). Any such union member or subordinate union may also bring a civil action in a U.S. district court for appropriate relief (including injunctions).

## Enforcement under the CSRA

For a complaint alleging violation of election provisions by a union subject solely to the CSRA, a union member must first exhaust his internal union remedies or pursue them for 3 calendar months without obtaining a final decision. He may then file a complaint with the OLMS within 1 calendar month. After an OLMS District Director investigates the complaint, he submits a report to the Chief of the Division of Enforcement (DOE). If the Chief, DOE finds probable cause to believe a violation has occurred, has not been corrected, and may have affected the outcome of the election, he then proceeds as the complainant in an administrative action. In the administrative action, a Labor Department administrative law judge holds a hearing and then prepares a report and recommendation. After consideration of the report and recommendation, the Assistant Secretary for Employment Standards issues a decision and order.

Enforcement of the CSRA's trusteeship requirements is by the Chief, DOE acting either on his own initiative or in response to a complaint. For a more detailed description of the administrative enforcement procedures, consult the Labor Department's standards of conduct regulations (29 CFR Parts 457-459) and the pamphlet *Rights and Responsibilities under the LMRDA and the CSRA*, available at OLMS field offices in the cities listed at <http://www.dol.gov/dol/esa/contacts/olms/lmskeyp.htm>.

## Summary

- Enforcement of the election provisions of the LMRDA is through a member's complaint filed with the Secretary of Labor.
- Complaints should list all violations of which the member is aware.
- Member must exhaust internal union remedies or pursue them for 3 months; he then has 1 month to file a complaint with the Secretary.
- If the Secretary's investigation reveals probable cause to believe a violation that may have affected the outcome has occurred and has not been remedied, he shall bring civil suit in U.S. district court.
- If the court finds the violation may have affected the outcome of the election, it shall declare the election void and order a new election.
- A challenged election is presumed valid pending a final decision.
- Election procedures in a union subject solely to the CSRA are enforced through administrative action initiated by a member's complaint to OLMS after he has exhausted internal union remedies or pursued them for 3 months.

## 7. Relation of the bill of rights to the election provisions

Congress determined that certain basic rights should be guaranteed to union members, and these are listed in title I of the LMRDA as a bill of rights. Similar rights for members of unions subject to the CSRA are listed in 29 CFR 458.2. Of particular importance in connection with elections are provisions for equal rights, freedom of speech and assembly, protection of the right to sue, and safeguards against improper disciplinary action. (See [Appendix B](#) for the complete text of the provisions of the LMRDA.) Any provision in a union's constitution and bylaws that is inconsistent with the bill of rights is declared to be of no force or effect.

### Equal Rights

All union members have equal rights and privileges in nominating candidates for union office, voting in union elections and referendums, and attending and participating in membership meetings, subject only to reasonable rules and regulations in the union's constitution and bylaws.

### Freedom of Speech and Assembly

Each union member has the right to meet with other members to express any views, arguments, or opinions, and (subject to established and reasonable union rules for conducting meetings) to express at meetings his views on candidates for union office and business that is properly presented at the meetings. However, these rights of members do not impair the right of a union to adopt and enforce reasonable rules defining the responsibility of members to the union and restraining conduct by members that would interfere with the union in carrying out its contracts and other legal responsibilities.

### Protection of the Right to Sue

The right of a union member to bring any suit or administrative proceeding (regardless of whether it is against the union or its officers) or to appear as a witness or communicate with legislators may not be limited by the union. However, a member may be required to pursue, for up to 4 months, reasonable hearing procedures provided by the union before bringing a suit or administrative proceeding against the union or any of its officers. Also, interested employers or associations of employers may not support or participate in union members' suits, proceedings, appearances, or communications unless they do so openly as involved parties.

### Safeguards against Improper Disciplinary Action

A union may not discipline, fine, suspend, or expel a member (except for nonpayment of dues) unless it first serves the member with a written list of the specific charges, gives a reasonable time to prepare a defense, and affords a full and fair hearing.

### Enforcement of the Bill of Rights

**Unions subject to the LMRDA.** Enforcement of title I rights as such (except rights under sec. 104) is limited to a civil suit in a district court of the United States by the person whose rights have been infringed. The Secretary of Labor is given no authority to enforce the members' rights enumerated in title I with the exception of sec. 104 (which concerns the availability of collective bargaining agreements to members and to employees whose rights are affected by the agreements).

Sec. 102 of the act includes the provision that a member seeking redress for denial of rights contained in title I may apply for an injunction. In the exercise of title I rights with regard to elections, if application for an injunction is made, it must be made before the election in question is held (see "[Application of Other Laws](#)," below).

Sec. 609 makes it unlawful for any union, its officers or employees to discipline any member for exercising the rights to which he is entitled under the act, either by expulsion, suspension, fine, or otherwise. Sec. 609 is enforceable by private civil suit only.

In some cases, the remedies for infringements of title I may not be confined to private civil suits. The use of violence or threats of violence in connection with an infringement of title I may be a violation of sec. 610. Sec. 610 makes it a crime to deprive a person of any rights under the act by use of violence or threats of violence. Complaints under this section of the act should be brought directly to the Secretary's authorized agent (the nearest District Director of the OLMS) or the nearest U.S. Attorney.

**Unions subject to the CSRA.** A member of a Federal employees' union subject solely to the CSRA who believes his rights under the bill of rights or 29 CFR 458.37, "Prohibition of certain discipline," have been violated may seek appropriate relief through filing a complaint with the OLMS. He may first be required, however, to exhaust his internal union remedies for up to 4 months. Administrative enforcement action within OLMS involves a hearing before a Labor Department administrative law judge, the judge's report and recommendation, and a decision and order by the Assistant Secretary. The member is the complainant at the hearing and bears the burden of presenting sufficient evidence to prove his allegations.

Enforcement of complaints alleging deprivation of rights through violence (29 CFR 458.38) may be initiated either by a member's complaint with the OLMS by order of an OLMS District Director, and is carried out through subsequent administrative action. A more detailed description of the administrative enforcement procedures is available in the Labor Department's standards of conduct regulations (29 CFR Parts 457-459) and in the pamphlet *Rights and Responsibilities under the LMRDA and the CSRA*, available at OLMS field offices in the cities listed at the end of this booklet.

## Summary

- Sections of title I that have a bearing on the election provisions (title IV) of the LMRDA are:
  - A. The guarantee of equal rights in nominating, voting, etc., subject to reasonable rules and regulations of the union's constitution and bylaws;
  - B. The guarantee of freedom of speech and assembly, and the freedom to express views on candidates in an election, subject to the union's established and reasonable rules in its constitution and bylaws;
  - C. The protection of the rights to sue, to appear as a witness, and to petition legislators, subject to invocation of reasonable hearing procedures within the union and subject to the prohibition against employer assistance in the exercise of these rights; and
  - D. The guarantee against improper disciplinary action by a union or any of its officers.
- Enforcement of these rights under the LMRDA is limited to civil suits brought in U.S. district court. The Secretary of Labor is given no authority to enforce these sections of title 1, or sec. 609, which protects union members from union discipline for exercising the rights granted by the act. However, violations of sec. 610, which prohibits depriving any person of any rights under the act by the use or threatened use of violence, are subject to criminal sanctions.
- Enforcement of the bill of rights and limitations on discipline under the CSRA is carried out through a member's complaint, followed by OLMS administrative action with the member as complainant. Enforcement of the prohibition on the use or threatened use of violence in depriving members of their rights is carried out by an OLMS District Director, acting on his own initiative or in response to a member's complaint.

## **8. Application of other laws**

The election provisions (title IV) also state that unions shall not be required by law to conduct elections either more frequently, or in another form or manner, than is provided in the act or in the union's own constitution and bylaws if they are not inconsistent with the act.

Only the procedures provided in title IV may be followed in contesting an election that has already been held. Existing rights and remedies to enforce a union's constitution and bylaws before an election, however, are unaffected by title IV.

Except where explicitly provided to the contrary, nothing in the act shall take away any right or bar any remedy of any union member under any other Federal or State law.

## 9. Election procedures checklist

Can your union answer "yes" to all questions?

Yes    No

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Are elections held within the 3-, 4-, or 5-year limit prescribed by the act? Do members receive reasonable opportunity for nomination, including notice of the:   |
| <input type="checkbox"/> | <input type="checkbox"/> | A. Offices to be filled;  |
| <input type="checkbox"/> | <input type="checkbox"/> | B. Time for submitting nominations;   |
| <input type="checkbox"/> | <input type="checkbox"/> | C. Place for submitting nominations; and  |
| <input type="checkbox"/> | <input type="checkbox"/> | D. Proper form for submitting nominations?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Do members have reasonable time to nominate candidates?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Do all members in good standing have an opportunity to be nominated, subject only to reasonable qualifications uniformly imposed?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Are rules governing eligibility for nomination fair, reasonable, and uniformly imposed?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Do all candidates have equal opportunity to use membership lists, distribute literature, and campaign for office?   |
| <input type="checkbox"/> | <input type="checkbox"/> | If there is a union-shop, maintenance-of-membership, or similar agreement, do all bona fide candidates have the opportunity to inspect membership lists of all members covered by the union-security clause, once within 30 days before the election? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are no funds received from dues, assessments, or similar levies used to promote the candidacy of any person? Are no employer funds so used?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Are all officers and all delegates to conventions at which they vote for officers elected by secret ballot?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Do all members in good standing have an opportunity to vote, limited only by reasonable rules uniformly imposed?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Are election notices mailed to members at least 15 days before elections?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Are candidates given the opportunity to have observers at each polling place and at each place where the ballots are counted?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Can members support candidates of their choice without being subject to penalty, discipline, improper interference, or reprisal of any kind?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Do election procedures conform to the constitution and bylaws and are they consistent with the provisions of the act?   |
| <input type="checkbox"/> | <input type="checkbox"/> | If there are persons barred under sec. 504(a) of the LM RDA or 29 CFR 458.36, have they been disqualified from seeking and holding office?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Are the ballots of each local counted and a report showing the vote by locals published separately in elections required to be held by title IV of the act?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Are ballots and other election records preserved for at least 1 year?   |



## Appendix A.

### Electing union officers by mail: Suggestions and safeguards

This appendix contains suggestions on conducting secret ballot elections by mail. It is advisory only, intended as an information aid to unions. Its purpose is to suggest procedures that will help insure the secrecy of the ballot and a fair election in unions that elect officers by mail.

Officials in charge of conducting a union officer election are responsible for protecting the right of every member to vote by secret ballot. Each candidate also is entitled to certain rights, including the right to have observers at each polling place and at each place where the ballots are counted. Since adequate safeguards must be provided to insure a fair election, observers also must be permitted to observe all of the mail balloting processes, including the preparation, mailing, and collecting of ballots. Balloting by mail includes these steps:

- Preparing a membership and voter eligibility list;
- Preparing and mailing election notices and ballots;
- Collecting and tallying ballots; and
- Postelection requirements.

#### Preparing a Membership and Voter Eligibility List

All members are entitled to 15 days' mail notice of the election whether or not they are eligible to vote. Each eligible voter is entitled to a ballot. Therefore, a list of members and eligible voters should be prepared before the date election notices and ballots are to be mailed.

The list should be accurate, complete, and current. It should contain each member's full name and last known address; identification information, such as a clock number or union card number; and voter eligibility information.

The ballot with voting instructions can also serve as a notice of election if it is mailed at least 15 days before the ballot must be mailed back in order to be counted.

#### Preparing and Mailing Election Notices and Ballots

The double-envelope system—the method most commonly used to insure the secrecy of the ballot—includes these steps:

- Each member eligible to vote should receive:
  - A. Notice of election and instructions for voting;
  - B. One official unmarked ballot;
  - C. One secret ballot envelope; and
  - D. One return-addressed envelope, with voter identification number or space for such a number, and space for the voter's name and address in the upper left corner.
- Items A through D should be placed in a larger envelope and mailed to the eligible voter at his last-known home address at least 15 days before the date the ballot must be mailed back in order to be counted. These items should be mailed first class to insure prompt delivery and forwarding, if necessary.
- All ballots, used and unused, and all election records must be preserved and accounted for. A certification of the exact number of ballots printed and delivered should be obtained from the printer. A certification of the exact number of ballots mailed to the members should be obtained from postal officials. Also, arrangements should be made to have undelivered ballots returned to the union's election committee (or other group of responsible member's or officials) for accounting purposes and possible remailing, subject to the rights of candidates to have their observers present during these activities.

- Instructions to members must specify the cutoff date for counting the returned marked ballots.
- Voting instructions should include the following:
  - A. Mark an "x" or "✓" in the squares next to the names of the candidates of your choice. Do not mark the ballot in any other way.
  - B. Place the marked ballot in the secret ballot envelope and seal. Do not mark the envelope.
  - C. Insert the ballot envelope in the return-addressed envelope.
  - D. Place your name, address, and membership number (or other required identification) in the space provided on the return-addressed envelope.
  - E. Mark and mail your ballot in time to arrive at the designated return address before (time, month, day, and year).\*
  - F. Ballot secrecy can be maintained only if you follow instructions and personally mark and mail your ballot.

## Collecting and Tallying Ballots

Prior arrangement should be made with postal officials not to release ballots except to authorized election officials in the presence of candidates or their observers at the scheduled time for the pickup.

Ballots should be picked up at the previously designated time, date, and place and brought to the pre-announced tally site. The tally should be conducted promptly by the authorized election officials, all in the presence of candidates or their observers.

In conducting the tally, election officials should:

- Establish the identity and eligibility of the voter;
- Separate the ballot envelope from the return envelope, preserving the return envelope;
- Upon completing the above steps, remove the ballot from the ballot envelope and stack the ballots in lots of 25, 50, or 100 for tallying;
- Tally the ballots by reading the voter's choice for each office, entering the results on the tally sheets, and rechecking the totals of each lot tallied for accuracy; and
- Have election officials and preferably also the observers initial or sign the tally sheets, certifying their accuracy.

Only election officials and authorized clerical personnel should handle the ballots and the election records, and always within the view of the observers.

## Postelection Requirements

Publish election results either by announcement, posting, newspaper, or other suitable method or combination of methods. If the election involves more than one local, the voting returns from each local must be separately tallied and published.

All election records, including membership and eligibility lists, copies of nomination and election notices, voting instructions, all return envelopes, marked, challenged, and unused ballots, and tally sheets must be preserved for 1 year by the election official designated in the constitution and bylaws or, if none is designated, by the union secretary.

---

\* Provide sufficient time for the delivery of the ballots from all mailing points at which members are located to be sure that all members will have had the required 15 days' notice before mailing back the ballots.

## Appendix B.

### Excerpts from the Labor-Management Reporting and Disclosure Act Of 1959, as Amended (LMRDA)

#### Definitions (29 U.S.C. 402)

Sec. 3. For the purposes of titles I, II, III, IV, V (except section 505), and VI of this Act . . .

(k) "Secret ballot" means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed . . .

(n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

(o) "Member" or "member in good standing", when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization . . . .

#### TITLE I — BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS

#### Bill of Rights (29 U.S.C. 411)

Sec. 101. (a)(1) Equal Rights. Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) Freedom of Speech and Assembly. Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations ...

(4) Protection of the Right To Sue. No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organization or any officer thereof: *And provided further*, That no interested employer or employer association shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

(5) Safeguards Against Improper Disciplinary Action. No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (A) served with written specific charges; (B) given a reasonable time to prepare his defense; (C) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall be of no force or effect.

### **Civil Enforcement (29 U.S.C. 412)**

Sec. 102. Any person whose rights secured by the provisions of this title have been infringed by any violation of this title may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate. Any such action against a labor organization shall be brought in the district court of the United States for the district where the alleged violation occurred, or where the principal office of such labor organization is located.

### **Retention of Existing Rights (29 U.S.C. 413)**

Sec. 103. Nothing contained in this title shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

### **Right to Copies of Collective Bargaining Agreements (29 U.S.C. 414)**

Sec. 104. It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. The provisions of section 210 shall be applicable in the enforcement of this section.

## **TITLE IV-ELECTIONS**

### **Terms of Office; Election Procedures (29 U.S.C. 481)**

Sec. 401. (a) Every national or international labor organization, except a federation of national or international labor organizations, shall elect its officers not less often than once every five years either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot.

(b) Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.

(c) Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution. Every bona fide candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.

(d) Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils,

shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot.

(e) In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title.

(f) When officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of this title. The officials designated in the constitution and bylaws or the secretary, if no other is designated, shall preserve for one year the credentials of the delegates and all minutes and other records of the convention pertaining to the election of officers.

(g) No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in an election subject to the provisions of this title. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

(h) If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with the Administrative Procedure Act that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this title.

(i) The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in subsection (h).

### **Enforcement (29 U.S.C. 482)**

Sec. 402. (a) A member of a labor organization—

- (1) who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body, or
- (2) who has invoked such available remedies without obtaining a final decision within three calendar months after their invocation,

may file a complaint with the Secretary within one calendar month thereafter alleging the violation of any provision of section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the election and removal of officers). The challenged election shall be presumed valid pending a final decision thereon (as hereinafter provided) and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(b) The Secretary shall investigate such complaint and, if he finds probable cause to believe that a violation of

this title has occurred and has not been remedied, he shall, within sixty days after the filing of such complaint, bring a civil action against the labor organization as an entity in the district court of the United States in which such labor organization maintains its principal office to set aside the invalid election, if any, and to direct the conduct of an election or hearing and vote upon the removal of officers under the supervision of the Secretary and in accordance with the provisions of this title and such rules and regulations as the Secretary may prescribe. The court shall have power to take such action as it deems proper to preserve the assets of the labor organization.

(c) If, upon a preponderance of the evidence after a trial upon the merits, the court finds—

(1) that an election has not been held within the time prescribed by section 401, or

(2) that the violation of section 401 may have affected the outcome of an election,

the court shall declare the election, if any, to be void and direct the conduct of a new election under supervision of the Secretary and, so far as lawful and practicable, in conformity with the constitution and bylaws of the labor organization. The Secretary shall promptly certify to the court the names of the persons elected, and the court shall thereupon enter a decree declaring such persons to be the officers of the labor organization. If the proceeding is for the removal of officers pursuant to subsection (h) of section 401, the Secretary shall certify the results of the vote and the court shall enter a decree declaring whether such persons have been removed as officers of the labor organization.

(d) An order directing an election, dismissing a complaint, or designating elected officers of a labor organization shall be appealable in the same manner as the final judgment in a civil action, but an order directing an election shall not be stayed pending appeal.

### **Application of Other Laws (29 U.S.C. 483)**

Sec. 403. No labor organization shall be required by law to conduct elections of officers with greater frequency or in a different form or manner than is required by its own constitution or bylaws, except as otherwise provided by this title. Existing rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by the provisions of this title. The remedy provided by this title for challenging an election already conducted shall be exclusive . . . .

## **TITLE V-SAFEGUARDS FOR LABOR ORGANIZATIONS**

### **Prohibition Against Certain Persons Holding Office (29 U.S.C. 504)**

Sec. 504.(a) No person who is or has been a member of the Communist Party\*\* or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of title II or III of this Act, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a consultant or advisor to any labor organization,

(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to

---

\* \*The U.S. Supreme Court, on June 7, 1965, held unconstitutional as a bill of attainder the section 504 provision which imposes criminal sanctions on Communist Party members for holding union office (U.S. v. Brown, 381 U.S. 437, 85 S. Ct. 1707).

providing goods or services to any labor organization, or  
(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,  
during or for the period of thirteen years after such Conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, United States Code, determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of his Act. Prior to making any such determination the court shall hold a hearing and shall give notice of such Proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final. No person shall knowingly fire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.

(b) Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

(c) For the purpose of this section—

- (1) A person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.
- (2) A period of parole shall not be considered as part of a period of imprisonment.

(d) Whenever any person—

- (1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and
- (2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.

## TITLE VI — MISCELLANEOUS PROVISIONS

### **Prohibition on Certain Discipline by Labor Organization (29 U.S.C. 529)**

Sec. 609. It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of this Act. The provisions of section 102 shall be applicable in the enforcement of this section.

### **Deprivation of Rights Under Act by Violence (29 U.S.C. 530)**

Sec. 610. It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of this Act. Any person who willfully violates this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

## Appendix C.

### Excerpts from title VII of the Civil Service Reform Act of 1978 — Federal Service Labor-Management Relations

#### **5 U.S.C. 7120. Standards of conduct for labor organizations.**

(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for –

- (1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;
- (2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences; . . . .

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that –

- (1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or
- (2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary for Employment Standards, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section . . . .





# Checklist for Conducting Local Union Officer Elections

---

This checklist has been developed by the Office of Labor-Management Standards (OLMS) to help election officials conduct union officer elections in accordance with the requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended. Organized chronologically, the checklist is designed to serve as a reminder of the various tasks which should be completed during the nomination and election process, including polling place procedures. If your union elects its officers by mail ballot or allows absentee ballots, election officials should also read [Electing Local Union Officers by Mail](#) for information and practical suggestions on how to conduct your union's election properly, using a double envelope system to insure ballot secrecy.

## Planning

- ☐ Review the union's constitution and bylaws as well as any other union election rules for information regarding nomination procedures, candidate qualifications, and voter eligibility requirements. Remember that elections must be conducted in accordance with provisions of your union's constitution and bylaws as long as they are not inconsistent with federal law.
- ☐ Contact current officers to find out how your union's most recent election was conducted and if any problems occurred. Also obtain copies of prior notices, ballots, tally sheets, and other records to use as models in the upcoming election.
- ☐ Meet with the other election officials to establish election and campaign rules, develop a general timetable which allows adequate time for each stage of the election, and discuss specific election duties.
- ☐ Select a polling site(s) and schedule polling hours which will provide all members a reasonable opportunity to vote. If the voting will take place on employer property, contact the employer to obtain approval.
- ☐ Contact your union's parent body or one of the [OLMS offices](#) if questions arise about any nomination or election requirements.

## Nominations

- ☐ Prepare a nomination notice that specifies the date, time, and place for submitting nominations and the offices to be filled (and identifies any offices for which the officer is a delegate by virtue of election to office). If appropriate, the nomination notice should also include the term of office, instructions for making, seconding, and accepting nominations, and eligibility requirements for candidates and nominators. A union may use a combined nomination and election notice as long as it is mailed to every member and includes all required information.
- ☐ Post and/or mail the nomination notice to all members in enough time to allow a reasonable opportunity for nominating candidates. Take steps to notify sick, laid-off, or other nonworking members who may be eligible to nominate candidates but who might not see a notice posted only at the work site(s) or union hall.
- ☐ Keep an accurate record of all nominations made including the names of nominators, members who second nominations, and the nominees and positions for which they were nominated.
- ☐ Check the eligibility of nominators (and members who second nominations) at the nomination meeting if your union requires them to be in good standing. Allow another member the opportunity to make the nomination if the original nominator is not in good standing.

- ☐ Determine the eligibility of all nominees and obtain nomination acceptances or declinations from each nominee. All candidate eligibility requirements must be set forth in writing in the union's constitution and bylaws and must be applied uniformly to all candidates.
- ☐ Notify all eligible candidates of their nomination and request the preferred listing of each candidate's name or nickname on the ballot in accordance with the election rules. Advise any ineligible candidates in writing of the specific reason(s) for their disqualification.

### **Campaign Guidelines**

- ☐ Notify candidates (in writing or by holding a meeting) of all election and campaign rules including the right to inspect the union's membership list, the right to have the union distribute campaign literature to members at each candidate's expense, and the right to have observers at the polling place and the tally of ballots.
- ☐ Advise candidates and current officers about the prohibition against the use of union and employer funds (including cash, facilities, equipment, supplies, and campaigning on time paid for by the union or employer) to support any person's candidacy in a union officer election.
- ☐ Allow candidates to inspect (not copy), once within 30 days before the election, a list of all members subject to a collective bargaining agreement which requires union membership as a condition of employment.
- ☐ Make arrangements to comply with all reasonable requests by a candidate to distribute campaign literature to members at the candidate's expense. If necessary, the union should employ additional temporary staff or a professional mailer to handle requests.
- ☐ Treat all candidates equally. For example, if any candidate is allowed to give a campaign speech at a union meeting or publish an article in the union's newspaper, all candidates for that position should be advised of and given the same opportunity.

### **Election Preparations**

- ☐ Update the union membership address list; remind members of the upcoming election through notices posted at the work site(s) or in the union newspaper and solicit any address changes.
- ☐ Prepare an election notice that specifies the offices to be filled and the date, time, and place of the election. If appropriate, the election notice should also include voter eligibility requirements, voter identification procedures, and information regarding absentee balloting.
- ☐ Mail an election notice to every member at his or her last known home address at least 15 days prior to the election as required by federal law. Also post copies of the notice at the work site(s) and the union hall in an effort to reach members who may not receive the mailed notice.
- ☐ Determine each candidate's position on the ballot in accordance with your union's election rules.
- ☐ Arrange for ballots to be printed and for the printer to provide an official count.
- ☐ Check the ballot carefully before and after printing for accuracy. Insure that each candidate's preferred name is used and correctly spelled, each office indicates the correct number of positions to be filled, and each candidate is listed for the proper office in the correct order.
- ☐ Maintain custody of and safeguard all ballots and be able to account for all ballots printed.
- ☐ Prepare an accurate voter eligibility list for use at the polls and update it, if necessary, immediately prior to the election.

- ☐ Establish challenged ballot rules (including the use of a double envelope system) for those persons whose voter eligibility is questioned at the polls.
- ☐ Inspect the polling site prior to election day. Plan how to best use the voting area, including the location of the registration tables, voting booths, ballot box, and observer area.
- ☐ Obtain a sufficient number of voting booths, partitions, or other dividers to provide a place for members to mark their ballots in secret.
- ☐ Plan for the tally of ballots and determine the counting and voiding procedures to be used. Prepare tally sheets to be used at the ballot count.

### **Polling Place Procedures**

- ☐ Insure that adequate information to verify voter eligibility and necessary equipment and supplies (including ballots and ballot box, voting booths/partitions, pencils, voter register, rubber bands, tape, etc.) are available at the polling site.
- ☐ Permit each candidate to have an observer(s) at the polls. Allow observers to monitor (but not disrupt) the election process and challenge the eligibility of any voter.
- ☐ Confirm that the ballot box is empty and seal it in the presence of observers before the polls open.
- ☐ Insure that any voting machines used are operating properly, that all candidates are listed correctly, and that the machine counters are set at zero. Be sure to have a supply of paper ballots on hand if machines break down or it becomes necessary to use challenged ballots.
- ☐ Open the polls at the scheduled time and follow the polling hours listed in the election notice.
- ☐ Require voters to identify themselves and sign a voter register before being issued a ballot by election officials.
- ☐ Check the eligibility of each voter and take steps to make sure that a member can only vote once by marking each voter's name off the eligibility list.
- ☐ Do not issue ballots to voters until a voting booth or other private space is available and insist that voters cast their ballots in secret.
- ☐ Provide a replacement ballot to any voter who spoils a ballot while voting. Maintain custody of all spoiled ballots and account for them at the completion of the ballot tally.
- ☐ Allow only election officials, voters, and observers in the polling area. Insure that election officials and observers do not wear campaign buttons, stickers, or other campaign apparel, and do not engage in any type of campaigning in the polling area.
- ☐ Maintain order at the polls at all times. Check the voting area periodically and remove any campaign material left behind by voters. Enforce a "no loitering" rule and establish an exit route for persons who have already voted.
- ☐ Establish procedures to provide assistance on an impartial basis to physically impaired or foreign language speaking voters.
- ☐ Close the polls on time but permit members in line at closing time to vote.
- ☐ Account for all ballots used at the polling site including any spoiled and sample ballots. The number of ballots printed minus the number of ballots issued to members should equal the number of unused ballots.

## Ballot Tally

- ☐ Begin the ballot tally only after all polls are closed.
- ☐ Open the ballot box in the presence of observers. Direct ballot counters to unfold ballots and place them in stacks of 50 or 100 in order to obtain the total number of ballots cast and to insure accuracy during the actual vote count.
- ☐ Allow observers to watch the counting and other related activities closely enough to verify the accuracy of the tally. However, observers should not be permitted to handle the ballots.
- ☐ Attempt to resolve any challenged ballots at the start of the tally. Keep a record of decisions made and explain the reason for each voter eligibility decision to observers. Mix in challenged ballots resolved as eligible with other ballots not yet counted to preserve secrecy.
- ☐ Count the votes on each ballot and enter the results on tally sheets, stopping at the end of each stack of 50 or 100 ballots to verify vote totals for each candidate.
- ☐ Void the entire ballot if it contains information identifying the voter. Void only the particular office involved if voter intent is not clear or if too many candidates have been selected for an office.
- ☐ Announce the tally results for each office. Report the number of valid ballots counted, the number of totally void ballots, and the number of unresolved challenged ballots.
- ☐ Pack and seal in boxes all used and unused ballots, tally sheets, voter registers, voter eligibility lists, and other election materials upon completion of the tally.

## Post-Election Activity

- ☐ Publish and post the election results promptly.
- ☐ Maintain all nomination and election records for at least one year as required by federal law.

If you have any questions about the election procedures outlined in this checklist or wish to obtain additional information about union officer elections or other requirements of the Labor-Management Reporting and Disclosure Act of 1959, as amended, contact the nearest [OLMS field office](#).

## Office of Labor-Management Standards Field Offices

Atlanta, GA	Cleveland, OH	Honolulu, HI	Nashville, TN	St. Louis, MO
Birmingham, AL	Dallas, TX	Kansas City, MO	New Orleans, LA	San Francisco, CA
Boston, MA	Denver, CO	Los Angeles, CA	New York, NY	Seattle, WA
Buffalo, NY	Detroit, MI	Milwaukee, WI	Philadelphia, PA	Tampa, FL
Chicago, IL	Ft. Lauderdale, FL	Minneapolis, MN	Pittsburgh, PA	Washington, DC
Cincinnati, OH				

For the address and telephone number of our field offices, please consult local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, or view our online organizational listings at: <http://www.dol.gov/olms/contacts/lmskeyp.htm>.

Office of Labor-Management Standards

U.S. Department of Labor

Revised 2014 (Last Updated March 2019)

Visit us at [www.olms.dol.gov](http://www.olms.dol.gov)

E-mail us at [olms-public@dol.gov](mailto:olms-public@dol.gov)

Call the DOL National Call Center at **1.866.487.2365**

# Updating Your Union's Membership Mailing List



Accurate mailing lists are essential to successful organizations. Unions have a special interest in keeping their membership lists up-to-date in order to comply with the election provisions of the Labor-Management Reporting and Disclosure Act. This law requires unions to mail election notices to members at their last known home address and to comply with candidates' requests to distribute campaign literature. Unions that conduct elections by mail have an additional responsibility to ensure that membership mailing lists are complete and accurate in order to guarantee that all members receive ballots and are given the opportunity to vote.

As an initial step, union officials should compare the mailing list with membership records to ensure that the names of all members appear on the mailing list including new or transferred members as well as any members whose addresses are known to be incorrect. The union's system for recording addresses and making address changes should also be examined to make certain that address change information is entered in a timely, accurate manner. Following are additional suggestions for updating your union's mailing list:

- ☐ Post notices at work sites, web sites, the union hall, bulletin boards, and in the union newspaper requesting members to advise the union of address changes.
- ☐ Make any scheduled mailing to members by first class mail several months before nominations so that the post office will return any undelivered mail; obtain better addresses for members whose mail was returned.
- ☐ Check listings in local telephone books and through Internet "search engines" to find updated addresses; telephone members to request new addresses.
- ☐ Contact the personnel office of employers to obtain corrected addresses.
- ☐ Seek assistance from employers in obtaining corrected addresses from members through inter-office mail, mail drop, e-mail, notes from the union which accompany paychecks, contacts with supervisors, or other appropriate means.
- ☐ Contact union parent body officials or the pension/benefits plan office to obtain members' most recent addresses.
- ☐ Provide business agents and stewards with the names of members with "bad addresses" and ask them to obtain updated addresses when visiting work sites.
- ☐ List in the union newspaper and announce at meetings the names of members whom the union has been unable to contact and ask fellow members if they know how to reach them.

Keeping an up-to-date membership mailing list is extremely important and requires ongoing attention. If your union's mailing list is not up-to-date, the procedures outlined above should begin at least three to six months prior to nominations. In addition to updating membership lists, unions should post election notices at all work sites. In the case of mail ballot elections, such notices should advise members how to obtain a ballot if none is received.

---

*For additional information on planning and conducting local union officer elections, contact the nearest Office of Labor-Management Standards (OLMS) field office to request a copy of "Conducting Local Union Officer Elections: A Guide for Election Officials" or review this publication on the OLMS Web site at <http://www.dol.gov/olms/reg/compliance/localelec/localelec.htm>.*

---



**We care. We fight.  
We show up. We vote.**



# **2020 AFT CONSTITUTION AND BYLAWS**

Adopted by the National Convention of  
the American Federation of Teachers, AFL-CIO

Virtual Convention  
Correct as of July 2020







Randi Weingarten  
PRESIDENT

Fedrick C. Ingram  
SECRETARY-TREASURER

Evelyn DeJesus  
EXECUTIVE VICE PRESIDENT

### **AFT Executive Council**

J. Philippe Abraham  
Shelvy Y. Abrams  
Frederick Albert  
Elba L. Aponte Santos  
Barbara Bowen  
Vicky Rae Byrd  
Zeph Capo  
Donald Carlisto  
Larry J. Carter, Jr.  
Kathy A. Chavez  
Donna M. Chiera  
Melissa Cropper  
Amanda Curtis  
Jolene T. DiBrango  
GlenEva Dunham  
Marietta A. English  
Francis J. Flynn  
Jeffery M. Freitas  
Lisa Gourley  
David Gray  
Ron Gross  
Anthony M. Harmon

David Hecker  
Karla Hernandez-Mats  
Jan Hochadel  
Jerry T. Jordan  
Frederick E. Kowal  
Stephanie Ly  
Terrence Martin, Sr.  
John McDonald  
Daniel J. Montgomery  
Michael Mulgrew  
Andrew Pallotta  
Donna Phillips, RN  
Juan Ramirez  
Jesse Sharkey  
Andrew Spar  
Denise Specht  
Wayne Spence  
Jessica J. Tang  
Adam Urbanski  
Debbie White, RN  
Carl Williams

The **American Federation of Teachers** is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Copyright © American Federation of Teachers, AFL-CIO (AFT 2020). Permission is hereby granted to AFT state and local affiliates to reproduce and distribute copies of the work for nonprofit educational purposes, provided that copies are distributed at or below cost, and that the author, source, and copyright notice are included on each copy. Any distribution of such materials to third parties who are outside of the AFT or its affiliates is prohibited without first receiving the express written permission of the AFT.

---

## Table of Contents

---

---

### Constitution

---

Article	Page
I Name.....	1
II Objects .....	1
III Membership .....	2
IV Charters .....	4
V Officers.....	6
VI Executive Council .....	7
VII Conventions .....	11
VIII Representation.....	11
IX Revenues.....	14
X Amendments .....	14
XI Affiliation .....	15
XII Referenda.....	15
XIII Parliamentary Authority.....	16

---

### Bylaws

---

I Special Rules of Order for Conventions .....	17
II Committee on Credentials .....	18
III Convention Program .....	18
IV General Convention Procedure .....	19
V Convention Committees .....	20
VI Nominations and Election Procedures.....	20
VII Standing Committees .....	21
VIII Per Capita, Budget and Audits.....	21
IX Affiliate Audit and Financial Review Requirements .....	23
X Good Standing.....	24
XI Suspension of Rules and Amendment of Bylaws .....	25
Index .....	26



# Constitution

of the American Federation of Teachers, AFL-CIO

*NOTE: Underlined words indicate new language adopted at the 2020 convention. Strikethroughs indicate deleted language.*

Name	ARTICLE I		color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status.	Worker Rights
	Name			
	This organization shall be known as the American Federation of Teachers, with divisions known as AFT Teachers, AFT Paraprofessionals and School-Related Personnel, AFT Nurses and Health Professionals, AFT Higher Education, <del>and</del> AFT Public Employees, <u>and AFT Retirees.</u>			
Bargaining Rights	ARTICLE II		Section 4. To obtain for teachers and other workers all of the rights to which they are entitled in a free society.	Improve Professional Standards
	Objects			
	Section 1. To obtain exclusive bargaining rights, including the right to strike, for teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, state and local public employees, healthcare employees and other workers.			
Mutual Assistance	Section 2. To bring local and state federations of teachers and other workers into relations of mutual assistance and cooperation.		Section 5. To improve standards for teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, state and local public employees, healthcare employees and other workers, by promoting better preparation, encouraging relevant in-service training and securing the working conditions essential to the best performance of professional service.	Improve Health Standards
	Section 3. To promote the welfare of children and all others we serve by providing progressively better educational, health and social service opportunities for all, regardless of race, creed,			
Child Welfare	Section 6. To improve the standards for registered nurses, allied health professionals and other healthcare employees by advancing economic status, promoting better preparation in basic education programs, encouraging and promoting continuing education, securing working conditions essential to the best performance of services and the most effective delivery of healthcare.		Section 7. To improve standards for public employees by working for the passage and strengthening of collective bargaining and civil service legislation in the	Improve Public Employee Standards
	Section 7. To improve standards for public employees by working for the passage and strengthening of collective bargaining and civil service legislation in the			

	states, promoting continuing education for state employees and securing working conditions conducive to the best performance and delivery of public service.	
		<div>ARTICLE III</div> <div>Membership</div>
Improve Education	<b>Section 8.</b> To encourage the hiring and retention of competent teachers, paraprofessionals and school-related personnel, the maintenance of modern, well-equipped schools and the promotion of such educational programs and conditions in American schools as will enable their students to equip themselves better to take their places in the economic, social and political life of the community.	Divisions
Promote Welfare	<b>Section 9.</b> To promote the welfare of the healthcare consumer by promoting progressively better access to and utilization of healthcare resources in this country.	
Oppose Bias	<b>Section 10.</b> To fight all forms of bias due to race, creed, color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status.	Program and Policy Councils
Promote Democracy	<b>Section 11.</b> To support and promote the ideals of democracy as envisioned in the Constitution of the United States of America, its Bill of Rights and other Amendments, to work for passage and retention of just laws that will improve the educational climate for students, teachers and other workers in education and to encourage them to exercise their proper rights and responsibilities under these laws.	
		Membership
		Membership Outside Local Jurisdiction
Organize Retirees	<b>Section 12.</b> To encourage state federations and locals to organize retired members, <u>and to advance the interests of retired persons in our society.</u>	
	<b>Section 13.</b> To support and encourage the unification of labor and community to work together for the betterment of civil society.	Charters
	<b>Section 1.</b> This organization shall consist of divisions of public and private school teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, nurses, allied health professionals and other healthcare employees, state and local public employees and other workers organized in conformity with the provisions of this constitution, <u>including those members who have retired and are recognized by the applicable state or local affiliate.</u> Other employees may be members of any local whose constitution so permits.	
	<b>Section 2.</b> A program and policy council shall be created to represent each division of membership. Members of program and policy councils and their chairpersons shall be appointed by the AFT executive council, upon recommendation by the AFT president. Recommendations from the program and policy councils will be presented to the AFT executive council for its consideration.	
	<b>Section 3.</b> Classroom teachers with supervisory authority may be admitted to membership by any local whose constitution so permits.	
	<b>Section 4.</b> Any employee residing outside of the jurisdiction of an established local who is otherwise eligible for membership under this article may be accepted as a member of the nearest local or as a member at large of the state federation. The state federation shall have full jurisdiction in the determination of a procedure for participation by these at-large members in all activities of the state federation.	
	<b>Section 5.</b> The executive council may exercise its discretion in the chartering of groups of teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, nurses, allied health professionals, other healthcare employees, state and local public employees or other workers.	

Classes of Membership	<p><b>Section 6.</b> Locals may establish the following special classes of membership:</p> <p>(a) Employees who are eligible for membership whose salary is less than the beginning teacher's salary or employees whose salary is less than \$18,000, whichever salary is higher: Such locals pay per capita tax for such members at one-half the regular rate. Effective September 1, 2016, this income threshold shall be increased on a yearly basis by a percentage equal to the public sector Employment Cost Index published by the U.S. Department of Labor.</p> <p>(b) Employees earning under \$14,000: Such locals pay per capita tax for such members at one-quarter the regular rate. Effective September 1, 2011, this income threshold shall be increased on a yearly basis by a percentage equal to the public sector Employment Cost Index published by the U.S. Department of Labor.</p> <p>(c) Laid-off employees or employees on unpaid leave: Such locals shall pay per capita tax for such members at the rate of \$1 per month.</p> <p>(d) Employees earning under \$8,500: Such locals pay per capita tax for such members at one-eighth the regular rate. Effective September 1, 2011, this income threshold shall be increased on a yearly basis by a percentage equal to the public sector Employment Cost Index published by the U.S. Department of Labor.</p> <p>Such members shall be entitled to receive full benefits of membership.</p> <p><b>Section 7.</b> Where a local of the American Federation of Teachers exists in or near a college or university having a department of education, that local may accept prospective teachers as student members. Annual dues of \$5 per year shall be paid directly to the national office by the local for each student member. Student members shall have only visitors' privileges at the convention. A student teacher may also be accepted as a member at large of the state federation.</p>	<p><b>Section 8.</b> In jurisdictions where there are no college or university locals of the American Federation of Teachers, membership may be granted to individual college and university teachers by a local in that vicinity. Such membership may be maintained until there is chartered a college or university local in which such a member would be eligible for membership.</p> <p><b>Section 9.</b> The following classes of associate members and friends of the AFT are established:</p> <p>(a) In jurisdictions where there is no local, employees may be admitted as associate AFT members without AFT voting rights but with rights to participate in the benefit programs otherwise available to the general membership</p> <p>(b) Former active members who are not eligible to continue their active membership may be admitted as associate members without voting rights but with the right to participate in benefit programs such as insurance, travel and discount buying services.</p> <p>(c) Friends of the AFT who are not eligible for regular or associate membership but who wish to support the AFT's mission and values may join as Friends of the AFT without voting rights or other benefits of membership.</p> <p>(d) The dues for each class of members established in this section shall be determined by the AFT executive council.</p> <p>(e) The AFT executive council is authorized to establish an organization(s) of associate AFT members without AFT voting rights. Associate AFT members in such organization(s) shall elect their chief executive officer.</p> <p><b>Section 10.</b> <del>Effective September 1, 1990,</del> An active member who retires from his/her present position shall be admitted as an AFT retiree member whose sole AFT voting rights are provided in Article VIII, Section 6, and with the right to participate in the benefit pro-</p>	<p>Membership of Individual College Teachers</p> <p>Associate Membership</p> <p>Friends of the AFT</p> <p>Retiree Membership</p>
	<p><b>Student-Teacher Members</b></p>		

<p>Anti-Discrimination</p>	<p>grams otherwise available to the general membership. <u>The AFT executive council shall have the power to establish a program for voluntary financial support by retired members that will assist the AFT in sustaining programs for their benefit.</u></p> <p><b>Section 11.</b> No discrimination shall ever be shown toward individual members or applicants for membership because of race, creed, color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status. Locals may establish procedures for admission of new members except that no discrimination shall ever be shown toward individual members or applicants for membership because of race, creed, color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status.</p>	<p>locals shall establish and maintain a minimum dues level sufficient to effectively represent their membership unless, in the opinion of the executive council, special circumstances exist.</p> <p><b>Section 2.</b> Upon application to the executive council and the payment of a fee of \$25, a charter may be issued to 10 or more teachers in educational institutions not supported by public funds.</p> <p><b>Section 3.</b> Charters may be granted by the executive council to state federations upon the payment of a charter fee of \$10. A state federation shall consist of no fewer than three locals of the American Federation of Teachers, except when fewer than three locals represent jurisdictions embracing 50 percent of the teacher strength in the state. No dues shall be assessed on the state federations by the national organization except for the members at large as provided in the constitution.</p>	<p>Nonpublic Charters</p> <p>State Charters</p>
<p>Supervisory Membership</p>	<p><b>Section 12.</b> Nothing contained in this article shall permit this organization to admit into membership any organization of nonteaching persons who hold the position of principal or any higher position. This provision shall not be applicable to locals chartered prior to its adoption.</p> <p>Nothing contained in this article shall permit locals to admit into or retain in membership any nonteaching person who holds the position of principal or any higher position. This provision shall not be applicable to holders of such positions who held membership in any local prior to the adoption of this article.</p> <p>The executive council may permit locals to admit such persons into membership only where the exclusion of such persons from membership would legally bar a local from achieving exclusive representation for classroom teachers.</p>	<p><b>Section 4.</b> Charters may be granted by the AFT executive council to organizations of retired members upon payment of a charter fee of \$5. Applications for such charters shall be made only by established local unions, state federations or regional councils.</p> <p>The AFT executive council shall make such rules and regulations as are necessary for the administration of this section such as, but not limited to, the number of retirees required for issuing a charter and a definition of retiree.</p> <p>The voting status of such organizations shall be as defined in Article VIII, Section 6, of this constitution.</p> <p><b>Section 5.</b> All locals and state federations shall submit one digital copy of their constitution and bylaws by electronic means to the national organization within three months of receiving their charter. Affiliates shall similarly submit all subsequently amended constitutions and bylaws. No such constitution or bylaws shall be in conflict with the constitution of the American Federation of Teachers. The constitution and bylaws of each affiliated local and</p>	<p>Retiree Organizations</p> <p>Constitutions</p>
<p>Local Charters</p>	<div> <div>ARTICLE IV</div> <div>Charters</div> </div> <p><b>Section 1.</b> Ten or more teachers and/or other workers, upon application to the executive council and the payment of \$25, may be granted a charter, and such</p>	<p></p>	<p>Locals' Meetings and Elections</p>

	<p>state federation shall provide for regular meetings of an executive body and regular meetings of the general membership or a representative body of the general membership. The conduct of elections shall be consistent with the standards for such elections developed under Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA). Terms of office for officers shall not exceed four years, or fewer if required by applicable state or federal laws.</p>	<p>Militancy/Defense Fund of the American Federation of Teachers.<sup>1</sup></p>	
Pass-Through	<p><b>Section 6.</b> Each affiliated local shall increase the local dues to equal any increase in per capita payments that are required to be made to the American Federation of Teachers and any increase to either the state federation or the regional council with which the local is affiliated.</p>	<p><b>Section 10.</b> No charter of the American Federation of Teachers that defines or recognizes jurisdiction on a basis of race, creed, color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status or permits the practice of such jurisdiction shall be recognized as valid, and the practice of any local in limiting its membership on account of race, creed, color, national origin, disability, sex, sexual orientation, gender identity or expression, and social, political or economic status shall render its charter void.</p>	Anti-Discrimination
Minimum Membership	<p><b>Section 7.</b> The charter granted to any local shall not be revoked or suspended because it has a membership of fewer than 10 but not fewer than seven.</p>	<p><b>Section 11.</b> A student federation of teachers may be chartered in any college or university. There must be a minimum of 10 members. Per capita for each member to the national organization shall be \$5, payable annually.</p>	Student Charters
Suspension of Charter	<p><b>Section 8.</b> A charter issued to any local or state federation may be suspended or revoked by the executive council when the existence of such local or state federation is detrimental to the development of democracy in education. However, except for the nonpayment of dues to this organization, no local or state federation shall have its charter suspended or revoked until the executive council has (a) served the local or state federation with written specific charges, (b) provided the local or state federation a reasonable time to prepare its defense and (c) afforded a full and fair hearing within the jurisdictions of the local or state federation.</p>	<p>A student federation of teachers may be chartered in any high school upon an application of the sponsoring local and payment of not less than \$10 per year for such organization of at least 10 members. Locals may establish reasonable dues for members of the student federation.</p> <p>The executive council shall make such rules and regulations as are necessary for the administration of this section.</p> <p>Such student-teacher members shall have no voting status in either the national or state federations.</p>	
Suspension Appeal	<p>Except for nonpayment of dues, such suspension or revocation may be appealed to the next national convention. The appeal shall be the first order of convention business. The local may present its own case without the right to vote. A two-thirds vote of the convention shall be required to sustain such suspension or revocation.</p>	<p><b>Section 12.</b></p> <p><b>A. Jurisdiction of Locals</b></p> <p>The executive council shall have power to allocate and define and, from time to time, redefine and reallocate the jurisdictions within which locals may exercise their jurisdictions. In doing so, the executive council shall be guided by the primary purpose of the American Federation of Teachers, which is to organize teachers and other workers into strong, effective</p>	Executive Council Allocation of Jurisdiction
Disbanding of Local	<p><b>Section 9.</b> In the event a local or state federation disbands, the balance in the treasury shall be forwarded to the AFT</p>		

<sup>1</sup> IRS regulations prohibit the assets of defunct, nonprofit organizations from accruing to the personal benefit of former officers or members of the organization.

	unions for the purpose of achieving and engaging in collective bargaining.	risdiction of the employees of the employer of any such person.	
Geographic Jurisdiction	<p><b>B. Rules for Defining and Allocating Jurisdiction</b></p> <p>(1) In the exercise of this power, the executive council shall give preference to a local operating within a specific geographic area whose members shall constitute a bargaining unit of employees of a single employer or employees of two or more employers within a geographic area. Where a statute, regulation or decision by a court or other regulatory agency defines a bargaining unit on some other basis, exceptions may be made to conform thereto.</p>	<p>(7) Nothing in this section shall prohibit the existence or chartering of locals of educational workers other than teachers (such as clerks, truant officers, nurses, librarians and the like) where such local is otherwise in conformity with this section; nor shall anything in this section prohibit locals of nonpublic teachers and other educational workers in the same or overlapping geographic area as another local.</p>	Charter of Other Educational Workers
Multi-Employer Jurisdiction	<p>(2) It will not be considered an infraction of this principle if there are several employers of teachers and other workers within the same general geographic area and the employees of each such employer are organized separately.</p> <p>(3) No teacher or other worker who is a member of the bargaining unit of a local in a defined jurisdictional area may be a member at large of a state federation or be a member of a local having a general jurisdiction.</p>	<p>(8) The executive council may make rules to carry out any of the provisions of this section and shall determine all questions arising hereunder.</p> <p>(9) All decisions of the executive council that the executive council makes in the exercise of the powers defined in this section of this constitution may be appealed to the next national convention.</p>	Rules
Member-at-Large Restriction	<p>(4) A teacher or other worker who is a member at large of a state federation or a local having a general jurisdiction and is employed within the jurisdiction of another local now or hereafter chartered shall terminate such membership within 30 days.</p>		Appeal
State Jurisdiction	<p>(5) No local shall have or maintain jurisdiction in an area that crosses state lines or has jurisdiction in more than one state without the specific approval of the executive council.</p>		
Duplicate Membership	<p>(6) Nothing in this section shall prohibit a local from representing educational workers employed by labor organizations (other than the AFT) in worker education or by other private employers or government agencies or in places where no AFT local is chartered, but any person so employed shall cease to be a member of the first-mentioned local within 30 days after the chartering of a local that has ju-</p>		
<hr/> <p style="text-align: center;"><b>ARTICLE V</b></p> <hr/> <p style="text-align: center;"><b>Officers</b></p> <hr/>			
	<p><b>Section 1.</b> The elected officers of the AFT shall be a president, secretary-treasurer, executive vice president, and 43 vice presidents. All divisions must be represented among the 43 vice presidents. These 46 shall constitute the executive council. They shall be elected in the even years by the convention for the term of two years. Vacancies shall be filled as provided in Article VI of this constitution.</p>		Executive Council
	<p><b>Section 2.</b> The president shall be the chief executive officer of the federation and administer all of the affairs of the federation and execute policies of the federation as determined by the convention and the executive council. The president shall employ, supervise, direct, promote, discipline and discharge staff and retain counsel, accountants and other professional personnel. Initial employment, promotion and compensation of such persons, to the extent that such is not determined pursuant to collective bargaining agreements, shall be subject to the approval of the executive council.</p>		President

<div>Secretary-Treasurer</div> <div>Executive Vice President</div> <div>Officer Requirement</div> <div>Vice President Employment</div> <div>AFL-CIO Delegates</div>	<div> <p><b>Section 3.</b> The secretary-treasurer shall be the financial officer of the federation. His or her duties shall include:</p> <p>(a) the collection of all monies, properties, files and effects of the federation;</p> <p>(b) the payment of all monies properly authorized by the council or the president through the adopted budget of the federation;</p> <p>(c) to arrange from time to time but no less than annually for the audit of all books, accounts, records and financial transactions of the federation by an independent auditing firm. Such audit to be provided to the officers of the federation;</p> <p>(d) to issue the Call for the convention and cause the proceedings of the convention to be recorded; and</p> <p>(e) to work under the direction of the president in the performance of all other responsibilities as may be given him or her by the president or the executive council.</p> <p><b>Section 4.</b> The executive vice president shall assist the president in performing the duties of the chief executive officer of the federation and shall carry out those additional functions and responsibilities assigned by the president.</p> <p><b>Section 5.</b> No one shall be elected an officer of the federation unless he/she is a member <u>or retired member</u> of an affiliated local or a state federation.</p> <p><b>Section 6.</b> No vice president, except the executive vice president, shall be a full-time salaried employee of the American Federation of Teachers.</p> <p><b>Section 7.</b> The delegates to the convention of the American Federation of Labor and Congress of Industrial Organizations shall be the president, the secretary-treasurer, the executive vice president and other delegates elected by the biennial convention.</p> </div>	<div> <p>ARTICLE VI</p> <p><b>Executive Council</b></p> <p><b>Section 1.</b> It shall be the duty of the executive council to obey the instructions of national conventions, except that any action by the convention involving expenditure of funds shall be referred to the executive council with power to revise in conformity with the budget.</p> <p><b>Section 2.</b> Employees not covered by collective bargaining agreements shall be employed by individual contracts with provision for orderly dismissal with the right of hearing and representation by counsel in accordance with a procedure recommended by the president and approved by the executive council.</p> <p>Other employees may be employed by union contract, and procedures shall be established in all such contracts for orderly dismissal with the right of hearing and representation by counsel unless otherwise provided in a union contract. The provisions of this section shall not apply to officers of the federation.</p> <p><b>Section 3.</b> The executive council shall have the power to designate one of the officers of the federation to act in place of the president in the event of a temporary or permanent vacancy of the office during his/her term.</p> <p><b>Section 4.</b> The executive council, upon recommendation of the president, shall fill a temporary or permanent vacancy in the office of the secretary-treasurer.</p> <p><b>Section 5.</b> The executive council, upon recommendation of the president, shall fill a temporary or permanent vacancy in the office of the executive vice president.</p> <p><b>Section 6.</b> The executive council shall set the salaries of the president, the secretary-treasurer and the executive vice president. Such salaries shall not be diminished during their terms in office.</p> </div>	<div> <div>Convention Mandates</div> <div>Staffing</div> <div>Acting President</div> <div>Acting Secretary-Treasurer</div> <div>Executive Vice President's Vacancy</div> <div>Salary of President, Secretary-Treasurer and Executive Vice President</div> </div>
---	--	---	--

Council Vacancies	<p><b>Section 7.</b> The executive council shall have the power to fill vacancies in its membership until the next regular convention.</p>	<p>(i) upon the appeal of the officers or of the executive board or 30 percent or more of the membership of that local;</p>	
Additional Representation	<p><b>Section 8.</b> When a significant need for additional representation on the council arises between conventions, the president, with the approval of a two-thirds vote of the executive council, may add a temporary seat(s) to the executive council until the next convention.</p>	<p>(ii) upon the appeal by a two-thirds vote of the officers and executive board of a state federation or by state convention action or by 30 percent of the locals affiliated with a state federation; or</p>	Appeal
Duties	<p><b>Section 9.</b> The executive council shall have the authority to assign duties and areas of responsibility for each vice president.</p>	<p>(iii) upon the appeal of locals representing 30 percent of the membership of the American Federation of Teachers within the state.</p>	
Interpretation and Enforcement of Constitution	<p><b>Section 10.</b> The executive council shall have the power to interpret and enforce this constitution and to make rules not in conflict with this constitution and shall report such rules to the succeeding convention for approval or rejection. Any interpretation of the constitution by the executive council may be appealed at any subsequent convention.</p>	<p>The executive council may authorize a similar investigation of a state federation or of disputes between a local or locals and a state federation upon the appeal of one or more locals of that state.</p>	Investigation of a State Federation
Appeal		<p>In any of these situations, the committee shall conduct an investigation and make a full report with recommendations to the executive council, which shall have full power to take appropriate action to resolve the matter. One-third of the cost of the investigation shall be borne by the national office. The executive council shall require the initiating party to advance \$250 before proceeding, but may, in its final decision, assess up to two-thirds of the cost against the parties in such manner as it deems just. At its discretion, the executive council may return the \$250, or any portion of it, advanced by the initiating party.</p>	Report
Committees	<p><b>Section 11.</b> The executive council shall appoint such committees as it deems necessary, not inconsistent with the constitution.</p>		Assessment
Council Meetings	<p><b>Section 12.</b> The executive council shall meet at its discretion during the period between conventions. The expenses of executive council meetings shall be paid by the American Federation of Teachers, each member of the executive council submitting an expense account to the national office.</p>	<p><b>Section 14.</b> (b) The executive council may, by a two-thirds vote, authorize the president to appoint a committee to investigate a local or state federation where an election appears to have been conducted in violation of the local or state federation constitution, the AFT constitution or applicable federal law or a local whose conduct is not in harmony with the principles of the AFT and tends to bring the AFT into disrepute or a local that fails to maintain affiliation mandated in Article XI, Sections 2 and 3. The local or state federation shall be given an opportunity to present its position to the committee. The committee shall submit its findings and recommendations to the council, which shall have the power to take action to resolve the matter, including the imposition of the penalty contained in</p>	Investigations of a Local or State Federation
Expenses			
Council Authority	<p><b>Section 13.</b> The executive council shall have authority to deal with all of the affairs of the federation in the period between the conventions.</p>		
Investigation of a Local	<p><b>Section 14.</b> (a) The executive council may authorize the president to appoint a committee of the executive council to conduct an investigation of a local:</p>		



Article XI, Section 3, of this constitution and/or other appropriate penalties. The action of the council in such cases shall be final. The cost of such an investigation shall be borne by the national office.

**Section 14.** (c) The executive council may authorize the president to investigate the alleged failure of local unions and state federations to comply with provisions of the AFT constitution. Such an investigation shall determine whether or not a violation exists, and if so, what steps must be taken by the state federation or local to comply with the AFT constitution as well as what assistance may be offered by the national union to help the state federation or local to address circumstances that may have led or contributed to the violation. If such an investigation, or assistance provided as a result of such an investigation, fails to bring the state federation or local union into compliance with the AFT constitution, then the president shall submit findings and recommendations to the council, which shall have the power to take action to resolve the matter, including but not limited to the following, plus any other measures enforceable through legal action or any other means:

(i) the ordering and enforcement of compliance;

(ii) communication to the members of the state federation or local that informs them about the violation and how it affects their status as AFT members;

(iii) the withholding of any AFT services or assistance provided to the state federation or local;

(iv) the denial of access to the AFT Militancy/Defense Fund;

(v) the denial of delegate representation to the AFT convention;

(vi) suspension or revocation of charter as provided for in Article IV, Section 8, of this constitution; and

(vii) in the case of delinquent per capita to the national union or a state federation, interest levied on the amount in arrears and/or suspension as provided

for in Article IX, Section 5, of this constitution.

**Section 15.** (a) **Grounds.** In exceptional and unusual circumstances where an AFT state or local affiliate is incapable of taking adequate remedial measures on its own initiative, the AFT may establish an administratorship for the purpose of:

(i) restoring the rights of members in situations where there has been a significant failure either in election procedures or representation required under the AFT or affiliate constitution(s); or

(ii) correcting financial malpractice or misappropriation or loss of funds.

**Section 15.** (b) **Process for Approval of an Administratorship.** Where the executive council has reason to believe that the grounds set forth in paragraph (a) above exist to consider an administratorship, the president shall be authorized to appoint a committee of the council to investigate and conduct a hearing. That hearing shall be scheduled within 30 days, at which time the affected parties will be able to appear and present evidence, witnesses and arguments. Notice of such hearing and a written statement of the grounds for the proposed administratorship will be provided to the affected local or state federation before the hearing. The committee shall submit its findings and recommendations to the council for final approval. Thereafter, the executive council, by a two-thirds vote, shall have the power to authorize the president to establish an administratorship and appoint an administrator. In situations where an administratorship has been approved, the members of the affected AFT affiliate will be notified of the reasons for such decision, including an explanation of the administrator's duties and functions.

**Section 15.** (c) **Emergency Administratorship.** Under grounds pursuant to Article VI, Section 15(a), the AFT president, upon the unanimous decision of the AFT president, secretary-treasurer and executive vice president, is authorized to invoke an emergency administratorship in situ-

	<p>ations requiring immediate action for the purpose of securing and safeguarding an affiliate's assets and vital records from immediate threat, provided that the executive council by a two-thirds vote approves such emergency action within five business days of its having been invoked. Within 24 hours thereafter, the president shall appoint a committee of the council, in keeping with Article VI, Section 15(b) of the AFT constitution, to investigate and conduct a hearing; and the normal processes, timetables, hearing rights and approval requirements under Article VI, Section 15(b) of this constitution shall apply.</p>		
Powers	<p><b>Section 15. (d) Powers of the Administrator.</b> The administrator will report to the president or his or her designee and will be authorized to take full charge of the affairs of the local or state affiliate and to take such actions as are necessary to protect the interests of the membership. Where required, such authority shall include:</p> <ul style="list-style-type: none"> <li>(i) supervising the local or state affiliate's employees and other representatives;</li> <li>(ii) taking possession of the books, records, funds and other assets of the state or local federation; and</li> <li>(iii) suspending officers and staff of the local or state federation for the duration of the administratorship.</li> </ul>	<p><b>Section 15. (f) Limitation of Liability.</b> No financial obligation or liability of the local or state federation that may exist at the time an administratorship is established or that may be incurred during administratorship shall be assumed by or become an obligation of the American Federation of Teachers.</p> <p><b>Section 16.</b> The executive council shall have power to accept gifts and devise to the American Federation of Teachers if the conditions or purposes of any such gift or devise are not inconsistent with this constitution. The executive council may establish trusts or other agencies to hold and administer any such gift or devise and provide for appointment of trustees or managers thereof, upon such conditions as it may determine, subject to ratification at the next regular convention.</p> <p><b>Section 17.</b> The executive council shall have the power to carry on all the business affairs of the American Federation of Teachers, including, without limitation, the power to do on its behalf any or all of the following:</p> <ul style="list-style-type: none"> <li>(a) to sue and be sued, complain and defend on behalf of and for the use of the federation;</li> <li>(b) to adopt an official seal, which may be altered at pleasure, and to use the same by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced;</li> <li>(c) to purchase, take, receive, lease as lessee, take any gift, devise or bequest or otherwise acquire and to own, hold, use, deal in or with any real or personal property or any interest therein;</li> <li>(d) to sell, convey, mortgage, pledge, lease as lessor and otherwise dispose of all or any part of its property and assets;</li> <li>(e) to purchase, take, receive or otherwise acquire, own, hold, vote and use shares or other interests in or obligations of domestic or foreign corporations, associations, partnerships or individuals and to sell, mortgage, loan,</li> </ul>	<p>Financial Liability</p> <p>Gifts</p> <p>Council Power</p> <p>To Sue</p> <p>Adopt a Seal</p> <p>Acquire Property</p> <p>Sell Property</p> <p>To Purchase</p>
Termination of Administratorship	<p><b>Section 15. (e) Termination of Administratorship.</b> The executive council shall terminate an administratorship as soon as the cause for its establishment has been remedied. Where officer positions have been vacated as a result of the administratorship, then, prior to the termination of an administratorship, an administrator shall conduct an election in accordance with the applicable provisions of the governing documents of the affected local or state federation and the AFT constitution to fill such positions. Such officers will take office as of the date of the termination of the administratorship. At such time, an administrator shall also return control of the books, records, funds and other assets to the local or state federation.</p>		

	pledge or otherwise dispose of such shares, interests or obligations;		
<b>To Contract</b>	(f) to make contracts and incur liabilities that may be appropriate to enable it to accomplish any or all of its purposes; to borrow money for federation purposes at such rates of interest and terms and conditions as they may determine; to issue notes, bonds and other obligations; and to secure any of its obligations by mortgage, pledge or deed of trust of all or any of its property and income;		
<b>To Invest</b>	(g) to invest the funds of the federation from time to time in any real or personal property and to take and hold real and personal property as security for the security of funds so invested or loaned; and  (h) to do anything it deems necessary or appropriate to the exercise of the foregoing power or any other power granted to the executive council in this constitution.		
<b>Regional Councils</b>	<b>Section 18.</b> (a) The executive council may establish and/or revise regional councils to facilitate organization, professional growth, political and legislative activities and other purposes for the good of the union.		
<b>Membership Eligibility</b>	<b>Section 18.</b> (b) The executive council may provide for the affiliation of locals to a regional council in lieu of the requirement of Article XI, Section 2, of this constitution and that these locals shall not be comprised of employees of local education agencies, colleges or universities or locals affiliated with existing state federations on July 1, 1981.		
<b>Additional Per Capita</b>	<b>Section 18.</b> (c) The executive council shall establish and the AFT shall collect additional per capita from such locals to provide services to the regional councils with the approval of the executive council.		
<hr/>			
		<b>ARTICLE VII</b>	
		<b>Conventions</b>	
		<b>Section 1.</b> Effective in 1984, conventions of this organization shall be held biennially in even-numbered years at such time and in such place as the previous convention or the executive council may determine.	<b>Time and Place</b>
		<b>Section 2.</b> A special convention may be called in odd-numbered years by a two-thirds vote of the executive council or upon request from at least 30 locals representing a minimum of 30 percent of the AFT membership then in good standing from at least five states.	<b>Special Convention</b>
		<b>Section 3.</b> The members of the executive council who are not delegates from their local or state federation shall be ex-officio delegates at the convention and shall have one vote, except that such members shall not nominate or elect officers, at the convention.	<b>Executive Council Delegates</b>
<hr/>			
		<b>ARTICLE VIII</b>	
		<b>Representation</b>	
		<b>Section 1.</b> (a) Delegates and/or alternates to the convention from a local or retiree organization shall be elected by secret ballot. Members of each local must be given suitable opportunity to nominate candidates for the office of delegate and alternate. Notice of the right to make nominations must be sent to each member or given a prominent place in the local publication and on bulletin boards. Notice of the right to make nominations and notice of the election may be combined in one notice. Written notice announcing the time and place of election of delegates must be mailed to each member at least 15 days prior to the election. The results of the election must be published and the ballots kept for one year.	<b>Election of Delegates</b>
		<b>Section 1.</b> (b) Locals with fewer than 100 members each, but in the aggregate fewer than 300 members from a contiguous geographic area, may form councils	<b>Councils of Locals</b>

of locals for the exclusive purpose of electing a common delegate to the convention. Locals that form such a council under this section: (1) shall adopt a common resolution to establish the council in a regular meeting of such local no later than four months prior to the convention; (2) thereafter shall provide notice of nominations and elections to each member, as set forth in Section 1(a) above, to be the council's delegate to the convention; (3) shall elect at a meeting of each such local or by mail ballot agreed to by all locals in the council and in conformity with federal law no later than three months prior to the convention a delegate and alternate, if any, by a secret ballot common to each local in the council listing all nominees and their local numbers, the nominee receiving the highest number of votes totaled among all locals in the council to be the delegate, and the second highest, if any, the alternate; (4) shall forward properly signed credentials from each local in the council for the duly elected delegate and alternate, if any, of the council in time to reach the national office no later than two months prior to the convention; and (5) the executive council shall approve procedures consistent with the requirements of this section for the election of the council delegate. The secretary-treasurer shall forward such procedures to all locals reporting fewer than 100 members in per capita and to all state federations seven months prior to the convention. No local participating in the council shall have any other delegates seated in the convention. The voting strength of the council's delegate shall be based on the aggregate of the members in the locals that credential the council's delegate.

Councils

This section shall also authorize the executive council to recognize a council of locals organized for the convenience of doing business with one employer common to all of the council's locals for the purpose of electing delegates to the convention. Nomination procedures shall be established by such council to permit all such locals to nominate from their respective memberships at least 30 days in advance of the election, which shall be

conducted by mail ballot in conformance with federal law. The election of such council's delegates shall be further subject to the provisions of Article VIII, Section 2, of this constitution, provided that no other delegates shall be seated in the convention from any individual local of the council unless such local has notified the national office three months prior to convention that it is not participating in such council for the purposes of electing delegates to the convention. The voting strength of such council shall be based upon the aggregate membership of all such locals that individually credential all delegates common to the council.

**Section 1.** (c) Delegates and alternates of state federations shall be nominated and elected according to its constitution, provided that the delegates to the state convention are themselves nominated and elected by secret ballot as herein provided in Section 1(a) of this article, subject to applicable federal and state laws and rules and regulations promulgated pursuant thereto.

State  
Federation  
Delegates

**Section 1.** (d) Each local, state federation or retiree organization must send by registered or certified mail or any other reliable means, including electronic transmission, that provides proof of receipt to the national office a certified list of all elected delegates and alternates not later than 30 days prior to the opening date of the convention. Only delegates and alternates on this certified list shall be registered and seated at the convention.

Delegate  
Lists

**Section 1.** (e) In the event of non-delivery to the national office of the certified list of the elected delegates and alternates, the executive council may recommend the seating of the delegates and alternates only upon the submission by the president, secretary or ranking delegate of the local, state federation or retiree organization of a statement certifying the list of elected delegates and alternates accompanied by the duly authorized duplicate credentials and receipts showing that the originals were sent to the national office by registered or certified mail, or any other form of mail service providing a return receipt, postmarked no later than 30 days

Seating of  
Delegates

	<p>prior to the opening date of the convention.</p>	<p>Each state federation may elect one delegate to the convention, regardless of its at-large membership. Additional delegates may be elected by the state federations, according to their at-large membership, by applying the formula established for locals as set forth in Section 2 of this article.</p>	
Per Capita Qualifications	<p><b>Section 1.</b> (f) To be entitled to representation at the convention, the full per capita tax of the local and all other monies due the American Federation of Teachers shall be paid through the two months immediately preceding the convention date, such payment to be made to the national office no later than the last day of the second month prior to the opening date of the convention.</p>	<p>All such delegates shall be either members of the state federation or its affiliated locals, provided such locals are in full compliance with Section 1 of this article. All state delegates shall be members of the convention, with all privileges, and shall be entitled to cast votes for their state federation pursuant to Section 7 of this article.</p>	
Delegate Allocation	<p><b>Section 2.</b> One delegate to the convention may be elected by each affiliated local having a membership of 25 or fewer. (For each 100 members or major fraction thereof, one additional delegate may be elected.)</p>	<p><b>Section 6.</b> Each chartered organization of retired members may elect one delegate to the AFT convention in the manner prescribed by Sections 1(a) and 1(d) of this article and shall be entitled to one vote at the convention. Such delegates shall be entitled to all rights and privileges of a delegate except that such delegate shall not be entitled to nominate any candidate for federation office or cast a vote in the election of federation officers unless such delegate has been elected to that position by secret-ballot vote.</p>	Retiree Convention Delegates
Determining Average Membership	<p><b>Section 3.</b> Effective July 1, 1986, for the purpose of this article, membership shall mean the average number on which the per capita tax has been paid for the first 24 months of the 26-month period immediately preceding the month in which the convention meets, provided:</p>		
Local Eligibility	<p>(a) that no local in arrears for more than two months at the time of the convention shall be entitled to representation; and</p> <p>(b) that, in the case of locals that have been chartered during the two years preceding the convention, the average shall be computed on the basis of the number of months of affiliation, the minimum for such computation to be two.</p>	<p><b>Section 7.</b> Locals entitled to two delegates may not elect more than one who is a full-time paid elected official of the local. Locals entitled to more than two delegates may not elect more than one-third who are full-time paid elected officials of the local.</p>	Full-Time Staff Restrictions
Delegate Strength—Agency Fees	<p><b>Section 4.</b> That, in the case of locals that receive fees from nonmembers for representing them under an agency shop agreement, the average number on which the per capita tax has been paid shall be increased by including, as if it were per capita tax, the sum equal to the per capita tax paid as required by Article VIII, Section 1, of the bylaws.</p>	<p><b>Section 8.</b> On all roll calls at the convention, each local represented shall be entitled to a number of votes equal to the average membership as defined in Section 3 of this article.</p>	Roll-Call Voting Strength
State Federation Delegates	<p><b>Section 5.</b> State federations, upon compliance with Article VIII, Section 1, of this constitution shall have the right to send delegates to the conventions of the American Federation of Teachers.</p>	<p>The votes of a local shall be distributed evenly among the delegates present at the time of voting. The credentials committee shall evenly divide votes to four decimal positions at the time of tabulation. In the election of officers and delegates to the AFL-CIO convention, all voting shall be by roll-call vote and each local represented shall be entitled to the average membership as defined in Section 3 of this article.</p>	Distribution of Votes

Alternates	<p><b>Section 9.</b> When a delegate leaves the convention, his/her place in the convention may be taken by an alternate, if any has been certified as provided in Article VIII, Section 1, of this constitution and in the order as listed. No other transfer or substitution of voting rights shall be allowed.</p>	<p>due the American Federation of Teachers. Locals that have once submitted names and addresses of the members shall revise and correct the membership list with each per capita payment. The report shall be subject to an audit by the secretary-treasurer's office.</p>	Audit
	<hr/> <p style="text-align: center;"><b>ARTICLE IX</b></p> <hr/> <p style="text-align: center;"><b>Revenues</b></p> <hr/>	<p><b>Section 5.</b> Any affiliated local not paying its per capita tax on or before the 15th of each month shall be notified of the fact by the national office. A local that is more than three months in arrears shall pay interest on all monies owed in excess of three months' per capita. The rate of interest shall be at the rate then paid or payable for borrowed funds by the AFT, unless the executive council by a two-thirds vote shall decide to waive the interest provision where there is substantial justification. The local shall become suspended from membership and can be reinstated only by a majority vote of the executive council upon payment of arrearages in full. A local that the executive council refuses to reinstate shall have the right to appeal to the next convention.</p>	Per Capita Delinquency
Militancy/ Defense Fund	<p><b>Section 1.</b> Effective September 1, 2019, 70 cents and effective September 1, 2021, 95 cents of each member's per capita shall be set aside for a joint AFT Militancy/Defense Fund. The executive council shall establish clear guidelines and procedures that guarantee that the benefits available through the fund shall be distributed on an equitable basis. Strike benefits shall not be provided unless the strike action is in conformity with the AFT strike policy. An annual financial report of the Militancy/Defense Fund shall be made to the AFT executive council and to the convention, the purpose of which shall be in part to ensure that there is an adequate reserve to pay anticipated strike benefits.</p>		Interest on Arrearage
		<p><b>Section 6.</b> The treasurer of each affiliated local shall report monthly to the national office on forms furnished by the latter for that purpose and shall certify that the report is for the full number of members in good standing in the local.</p>	Appeal
Publications	<p><b>Section 2.</b> The payment of the per capita tax shall entitle each active member to a subscription to the official periodicals of the American Federation of Teachers.</p>		Treasurer's Certification of Membership
Members at Large	<p><b>Section 3.</b> State federations shall pay to the national office, for each member at large, the prevailing per capita tax required for each member of a chartered local.</p>	<p><b>Section 7.</b> The executive council shall have power to employ an auditor to examine the books of any affiliated local or state federation upon the direction of a majority vote of the executive council.</p>	Executive Council's Audit Powers
Per Capita Reports	<p><b>Section 4.</b> Effective September 1, 1990, the treasurer of each affiliated local shall fill out and forward to the national office, on or before the 15th day of each month, the report of active members in good standing and retiree members who have retired since the last reporting period. Members in good standing of chartered retiree organizations shall be reported to the national office on or before the 15th day of each month together with mailing addresses, on the first day of that month, together with all taxes and assessments</p>	<hr/> <p style="text-align: center;"><b>ARTICLE X</b></p> <hr/> <p style="text-align: center;"><b>Amendments</b></p> <hr/> <p><b>Section 1.</b> Proposed amendments to the constitution may be submitted to the convention either by request of the executive council or the convention or executive council of any state federation or by request of a local. All amendments shall bear the signature of at least two elected officers of the federation introducing the amendment. The officers signing the amendment shall certify that the amend-</p>	Procedure

	<p>ment was approved for submission to the convention by the executive board or membership of the local or by the executive board or convention of the state federation or by the executive council of the AFT.</p>	<p>the affiliations as required in Sections 2 and 3 of this article, except changes authorized by the prior sentence, shall be grounds for denial of delegate representation at any state or national convention of this organization or other appropriate penalties set by the executive council, except that the executive council may, by a two-thirds vote, waive these requirements for good and sufficient reasons.</p>	
Referendum Vote	<p><b>Section 2.</b> Proposed amendments may be submitted to a referendum vote under the procedure set up in Article XII of this constitution.</p>		
Time Limitations	<p><b>Section 3.</b> If a proposed amendment is to be submitted to a national convention, it must reach the national office by March 15 and must be sent by the national office to the locals by April 15.</p>	<p><b>Section 4.</b> The AFT executive council, by majority vote, may require each affiliated local to pay for each member the per capita tax levied by its respective AFL-CIO state central labor body to the AFT on the regular AFT per capita forms. The AFT shall submit payment to each state AFL-CIO central labor body in accordance with the AFL-CIO constitution.</p>	Per Capita Tax
Two-Thirds Vote Requirement	<p><b>Section 4.</b> The constitution shall be amended at the convention by two-thirds (majority) of the votes cast.</p>		
ARTICLE XI		ARTICLE XII	
Affiliation		Referenda	
AFL-CIO	<p><b>Section 1.</b> This organization shall immediately affiliate with the American Federation of Labor and Congress of Industrial Organizations and shall maintain that affiliation. The AFT president, however, with two-thirds approval of the executive council, may adjust the terms of such affiliation.</p>	<p><b>Section 1.</b> Proposed actions, including actions of the convention and amendment to the constitution and the bylaws, shall be submitted to a referendum vote by order of the convention or of the executive council or by request of 15 or more locals representing not less than 15 percent of the members then in good standing or by petition signed by not less than 10 percent of the members, except that the executive council shall not order a convention action to be submitted to referendum; provided, however, that in no case shall a referendum be held whose termination date is between June 1 and November 1; and provided that actions taken by the executive council concerning:</p>	Initiation
State Federation Requirements	<p><b>Section 2.</b> Effective September 1, 1968, each local union of this organization shall maintain affiliation with its state federation, and delegate representation of each local in the state federation shall be no less than the formula delineated in Article VIII, Section 2, of this constitution. Each state federation shall, in its convention, follow all voting procedures as delineated in Article VIII, Section 8, of this constitution.</p>	<p>(a) actions of the convention involving expenditure of funds;</p>	
Local and State AFL-CIO Labor Councils	<p><b>Section 3.</b> Effective September 1, 1969, each local union of this organization shall maintain affiliation with its AFL-CIO state labor council and its local AFL-CIO labor council(s) if such council(s) exist. If the adjustments are made in Section 1 above, similar adjustments may be made by local and state bodies. Failure of any local union to maintain</p>	<p>(b) the employment, re-employment or dismissal of officers, organizers, office employees and other general employees who are appointed and whose salaries or other remuneration are fixed by the executive council;</p>	

Limitations	<p>(c) the power to interpret and enforce the constitution and to make rules and bylaws not in conflict with the constitution subject to report to succeeding convention for approval, rejection or modification;</p> <p>(d) the power to appoint committees not inconsistent with the constitution;</p> <p>(e) the time and place for the meetings of the executive council and the expenses involved therein;</p> <p>(f) the power to fill vacancies on the executive council; and</p> <p>(g) the power to investigate locals;</p> <p>shall not be the subject of referendum; and further provided, that action taken by the convention under authority of the bylaws, Article VI, governing nominations and elections procedures, shall not be the subject of referendum.</p>	tives of each side of the issue on the ballot, shall remove the ballots and cause them to be counted. Ballots received after the opening of the postal box will not be counted. In the alternative, the president, with the consent of the executive council, may engage an independent agency to conduct the balloting and to count the votes. In such event, the agency shall count only those ballots received during the 30-day period following the mailing of the ballots to the members.	Ballot Verification	
Time Limit	<p><b>Section 2.</b> After receipt of order or request for referendum, it shall be the duty of the AFT president to transmit the question to be voted on to the locals within two weeks of its receipt by him/her. Following this, there shall be a period of six weeks during which the proponents and opponents shall be given opportunity to debate the issue through the regular channels of the union, at the end of which time the president shall send to the individual members of all locals in good standing ballots upon which the members shall cast their votes and shall also send to the members at large of the state federations, ballots upon which the members at large of the state federations shall cast their votes.</p>	<p><b>Section 4.</b> The number of the local shall appear on the ballot, and only those ballots of members of locals or of state federations in good standing shall be counted. These votes shall not exceed in number the number of members and members at large for which per capita was last paid prior to the date on which ballots were sent from the national office. Should the number of ballots cast by any local or state federation exceed the number to which that local or state federation is entitled, the “ayes” and “nays” shall be reduced proportionately to come within the required number.</p> <p><b>Section 5.</b> The president shall notify the locals of the results of the referendum as soon as possible but no later than two weeks following receipt of the count. The president shall also publish the results in the official publications of the American Federation of Teachers.</p> <p><b>Section 6.</b> AFT policy adopted by referendum shall not be considered by the first convention following the referendum.</p>		Notification of Results
Ballot-Counting Procedure	<p><b>Section 3.</b> The president of the AFT shall rent a postal deposit box. The individual members will mail the ballots to this postal box. The closing date of the referendum shall be 30 days from the date ballots are mailed from the national office. At the end of 30 days, the president, or the president’s representative, accompanied by at least two representa-</p>	<div>ARTICLE XIII</div> <div>Parliamentary Authority</div>		Referendum Duration
		<p>The rules contained in <i>Robert’s Rules of Order Newly Revised</i> shall govern this federation in all cases to which they are applicable and in which they are not inconsistent with rules regularly adopted by the federation.</p>		Robert’s Rules



# Bylaws

*NOTE: Underlined words indicate new language adopted at the 2020 convention. Strikethroughs indicate deleted language.*

---

## ARTICLE I

---

### Special Rules of Order for Conventions

---

#### Program

**Section 1.** The convention shall be called to order and conducted according to the printed program as prepared by the convention committee and approved by the executive council subject to such modification as the convention may make from time to time.

#### Adjournment

**Section 2.** The convention shall adjourn when the business of the convention has been finished.

#### Speech Time Limitations

**Section 3.** Limitations of speeches in debate shall be three minutes instead of 10 minutes as provided in *Robert's Rules of Order Newly Revised* unless time is extended by majority vote of the convention.

#### Roll-Call Vote

**Section 4.** A motion calling for a roll-call vote shall require a one-fourth vote for adoption. When a roll-call vote has been ordered, the presiding officer shall at once call for the next item on the agenda, action on the pending motion being automatically postponed pending the tabulation of the results of the roll-call vote. No debate, amendment or other motion affecting the question on which the roll-call vote was ordered may be made after a roll call has been ordered. The ballots shall be distributed to

the ranking delegates or their designees of each delegation under the direction of the presiding officer of the credentials committee. (These ballots shall be prepared in advance by the president or his/her representative.) Each delegate voting shall enter on his/her ballot how he/she is voting and will sign the ballot. This record shall be included in the convention proceedings. The ranking delegate shall collect the ballots from his/her delegation and submit ballots to the credentials committee. If a delegate's ballot is not collected promptly, he/she may deliver his/her ballot directly to the committee on credentials. No roll-call ballot shall be accepted later than three hours following the ordering of a roll-call vote. The results of the roll-call vote shall be tabulated by the committee on credentials and reported to the convention immediately upon completion of the tabulation according to the following procedure:

(a) the total vote shall be read;

(b) if any delegate challenges the vote of his/her local, the roll of delegates from that local shall be read, and each delegate shall rise as his/her name is called and announce his/her vote;

(c) the report on the roll-call vote shall then be revised to agree with the oral vote just taken; and

Vote  
Challenge

	<p>(d) a copy of the roll-call vote shall be posted showing the vote of each delegate and shall remain posted until the end of the convention.</p>	<p>debate and without action of the convention to the appropriate committees.</p>	
<p><b>Delegate Seating</b></p>	<p><b>Section 5.</b> Delegates shall be seated upon acceptance by the convention of the report of the credentials committee, and the list of delegates shall be made available to the members of the convention. The right of any delegate to be seated as a member of the convention shall be subject to challenge within a 24-hour period after he/she has been declared seated by the convention. Delegates may vote unless or until successfully challenged but, in the event of a roll-call vote, a successful challenge invalidates the individual's vote.</p>	<p><b>Section 9.</b> A quorum for the conduct of business at a convention shall be 25 percent of the delegates who have been seated.</p>	<p><b>Quorum</b></p>
		<hr/> <p style="text-align: center;"><b>ARTICLE II</b></p> <hr/> <p style="text-align: center;"><b>Committee on Credentials</b></p> <hr/> <p><b>Registration of delegates and visitors.</b></p>	
<p><b>Vote Distribution</b></p>	<p><b>Section 6.</b> In the case of locals represented by fewer delegates than the number of votes to which they are entitled, the votes shall be distributed in accordance with the constitutional provision (Article VIII, Section 8), and any remaining votes shall be distributed as determined by the delegation.</p>	<p><b>Section 1.</b> The committee on credentials shall be appointed by the executive council and shall be notified of their appointment at least two weeks prior to the convention. The committee shall consist of at least five members and shall be responsible for registration of delegates, council members and visitors.</p>	<p><b>Appointment</b></p>
		<p><b>Section 2.</b> Registration of delegates, members of the executive council and visitors shall begin at 1 p.m. or at a time approved by the executive council on the day preceding the convention. Before the time for registration, the president shall furnish the committee on credentials with copies of the lists of delegations and the duplicates of credentials as reported to him/her by the various locals. Each delegate, member of the executive council and visitor shall be furnished with an appropriate official badge to be worn at the convention.</p>	<p><b>Registration Procedure</b></p>
<p><b>Order of Business</b></p>	<p><b>Section 7.</b> The order of business for business sessions of the convention shall be as follows:</p> <p>(a) report of committee on credentials (credentials committee shall make supplemental reports at the beginning of each business session of the convention);</p> <p>(b) action on minutes of the previous convention as summarized in the delegates' reports prepared by the convention reporter;</p> <p>(c) reports of officers and executive employees;</p> <p>(d) report of executive council;</p> <p>(e) reports of convention committees;</p> <p>(f) reports of special committees; and</p> <p>(g) installation of officers.</p>	<hr/> <p style="text-align: center;"><b>ARTICLE III</b></p> <hr/> <p style="text-align: center;"><b>Convention Program</b></p> <hr/> <p><b>Section 1.</b> The committee on convention program shall be appointed by the executive council. This committee shall prepare the tentative program of the next convention and shall submit it to the president. The president shall send a copy of the tentative program to each delegate as soon thereafter as possible.</p>	<p><b>Badges</b></p>
<p><b>Reports</b></p>	<p><b>Section 8.</b> Reports of officers and executive employees given before the seating of delegates shall be referred without</p>		<p><b>Program Committee</b></p>

	<p><b>Section 2.</b> The convention program shall provide for business sessions, including one for nominations.</p>	<p>from the AFT national office to locals and state federations prior to the convention.</p>	
	<p style="text-align: center;"><b>ARTICLE IV</b></p> <p style="text-align: center;"><b>General Convention Procedure</b></p>		
Time and Place	<p><b>Section 1.</b> The convention shall convene during the months of July and/or August at the time and place determined by the executive council.</p>	<p><b>Section 5.</b> The president or presiding officer of the convention shall appoint an appropriate number of ushers whose duty it shall be to see that only persons entitled to admission shall be admitted to the convention hall. The ushers shall see that visitors are seated in the section assigned to them. They shall assist the presiding officer in such other ways as may be directed.</p>	Sergeants-at-Arms
Speech Duplication	<p><b>Section 2.</b> In case any motion is passed that any convention address be reproduced, the maker and seconder of the motion shall constitute a committee to secure the address in printable form and to submit it to the president.</p>	<p><b>Section 6.</b> The constitutional amendments committee shall be heard in full prior to other committee reports. The constitutional amendments committee shall report only the proposed amendments that it recommends for adoption, with or without amendments. At the conclusion or immediately after the conclusion of the committee's full report, any delegate may move adoption of a proposed amendment not recommended by the committee. The chair shall allow one statement for the proposed amendment and one statement against the proposed amendment. The chair shall then immediately put the question of whether the convention desires to debate the proposed amendment. If this motion prevails by a one-third vote, the proposed amendment shall be before the convention.</p>	Priority of Constitutional Amendments Committee
Convention Floor Admission	<p><b>Section 3.</b> Only credentialed delegates and members of the executive council shall be admitted to the convention floor except invited guests participating in the program of the convention. All visitors shall secure a pass from the credentials committee and shall be seated only in a special section reserved for them.</p>		Debate
Resolution Procedure	<p><b>Section 4.</b> Resolutions to the convention may be introduced by locals, state federations or the executive council of the American Federation of Teachers. No resolution shall be introduced later than six weeks prior to the opening of the convention except by two-thirds vote of the convention. All resolutions shall bear the signature of at least two elected officers of the federation introducing the resolution. The officers signing the resolution shall certify that the resolution was approved for submission to the convention by the executive board or membership of the local or by the executive board or convention of the state federation or by the executive council of the American Federation of Teachers. The resolution shall contain the title and shall be submitted to the president of the American Federation of Teachers. Properly signed resolutions may be mailed, emailed in PDF format or faxed to the president. Resolutions so submitted shall be mailed</p>	<p><b>Section 7.</b> Each other committee shall select the three resolutions or items of business it considers most important for its initial report. When these have been acted upon or at the end of an hour, of each committee's partial report, whichever comes first, debate shall be closed and all pending questions shall be put to a vote immediately unless the time of debate is extended by majority vote of the convention. After all committees have had an opportunity to make their first reports, additional committee reports may be made in the order selected by the president.</p> <p><b>Section 8.</b> Resolutions upon which no action has been taken shall die when the convention adjourns.</p>	Committee Reporting
			Resolutions Duration

Rules Adoption	<p><b>Section 9.</b> A copy of the rules should be provided for delegates and visitors upon convention registration and should be voted on at the opening session on the first day of the convention.</p>	<p>of committees except as the convention may desire to receive reports in a different order.</p>	
	<hr/> <p style="text-align: center;"><b>ARTICLE V</b></p> <hr/> <p style="text-align: center;"><b>Convention Committees</b></p> <hr/>	<p><b>Section 5.</b> Debate in committees may be limited by a two-thirds vote of the committee.</p>	Debate Limit
Appointment	<p><b>Section 1.</b> Convention committees shall be appointed by the executive council. In appointing such committees, the council shall give consideration to the expressed choices of delegates as indicated on the committee choice cards, which shall be sent by the president to each delegate promptly upon receipt of credentials. However, the council shall not be bound by the choice cards but shall give equal weight and consideration to service on standing committees and to the proper balancing of committees. Members of standing committees who are delegates shall be appointed to the corresponding convention committees so far as feasible in order to coordinate the work of convention and standing committees.</p>	<hr/> <p style="text-align: center;"><b>ARTICLE VI</b></p> <hr/> <p style="text-align: center;"><b>Nominations and Election Procedures</b></p> <hr/> <p><b>Section 1.</b> All nominations of officers shall be by petition signed by at least 50 delegates and presented to the secretary-treasurer no later than 8 a.m. on the third day of the convention. Declination of nominations shall be made prior to 8:30 a.m. on the same day. Candidates shall be introduced to the convention between 8:30 a.m. and 10 a.m. on the same day with the option of making a two-minute speech of acceptance. Candidates for president, secretary-treasurer and executive vice president shall be allotted five minutes for their acceptance speeches and remaining time allotted equally among vice-presidential candidates with the option of pooling their time. Nominations of delegates to the AFL-CIO convention will be made at the AFT convention that immediately precedes the AFL-CIO convention; nominations shall be by petition signed by at least 50 delegates and presented to the secretary-treasurer no later than 8 a.m. on the third day of the convention. Declination of nominations for delegate shall be made prior to 8:30 a.m. on the same day. Furthermore, candidates for delegate to the AFL-CIO convention shall be allotted two minutes for their speech with the option of pooling their time. No other business shall be conducted during this time.</p>	Procedures
Committee Choice	<p><b>Section 2.</b> A delegate interested in a specific problem of a resolution shall have an opportunity to present his/her viewpoint to the appropriate committee at a time designated by the committee chair.</p>		Speech Limitation
Committee Changes	<p><b>Section 3.</b> Changes in assignments of delegates to committees shall be made only by a committee of the executive council upon application. Such application shall include a written statement of the reason for desiring the change. Committee changes may be requested up to two hours prior to the start of the convention committee meetings.</p>		
Order of Committee Reports	<p><b>Section 4.</b> Reports of convention committees shall be received at the time designated in the printed program or as designated by the convention. Reports shall be made in the order assigned by the chair of the convention committee and the president who shall make such assignments upon application by the chair</p>	<p><b>Section 2.</b> Balloting for election of officers shall take place from 4:30 p.m. until 7:30 p.m. of the third day of the convention under the supervision of the elections committee. No other official business of the convention shall be conducted during balloting. Only delegates who are</p>	Election

President, Secretary-Treasurer & Executive Vice President Vote Requirement	<p>seated by 5 p.m. of the second day of the convention may vote in the election.</p> <p><b>Section 3.</b> A majority of the votes cast for the offices of the president, the secretary-treasurer and the executive vice president shall be required to elect the president, the secretary-treasurer and the executive vice president. In the event that no candidates for the positions of president, the secretary-treasurer or executive vice president receive a majority, a runoff election between the two candidates receiving the highest number of votes shall be conducted by roll-call vote.</p>	by the executive council, there shall be a standing committee on civil and human rights. The executive council shall appoint the chair and other members of the committee, which shall perform the following functions:	Recommend Strategies
Vice-Presidential Vote Requirement	<p><b>Section 4.</b> Vice-presidential candidates receiving the highest number of votes corresponding to the number of positions to be filled shall be declared elected subject to the provision of Article V, Section 1, of this constitution. In the event that there is a tie for the final positions, a runoff election for that position between the tied candidates shall be conducted by roll-call vote.</p>	<p>(a) recommend strategies for encouraging and coordinating local and regional conferences on civil and human rights in education, and work with locals to help establish effective local committees on civil and human rights;</p> <p>(b) identify resource materials on African Americans, Asian Americans, Hispanic Americans, Latinos, Native Americans, Arab Americans and other racial, ethnic, religious and under-represented groups and recommend the development of such materials for use by educators;</p>	Identify Resources
Appointment	<hr/> <p style="text-align: center;"><b>ARTICLE VII</b></p> <hr/> <p style="text-align: center;"><b>Standing Committees</b></p> <hr/> <p><b>Section 1.</b> The standing committees shall be established and appointed by the executive council not later than the midyear meeting of the council each year. The presiding officer and as many members of standing committees as possible shall be appointed at the post-convention meeting of the council.</p>	<p>(c) recommend strategies for identifying, supporting, actively recruiting and retaining African Americans, Asian Americans, Hispanic Americans, Latinos, Native Americans, Arab Americans and other racial, ethnic, religious and under-represented groups of teachers and other employees; and</p> <p>(d) conduct a national conference on civil and human rights.</p> <p>The committee shall submit a report on its activities to the convention, and a copy shall be sent to each local.</p>	Retain Minority Teachers and Other Employees
Continuity	<p><b>Section 2.</b> As a matter of policy, the executive council shall endeavor to maintain continuity of personnel of standing committees.</p>	<hr/> <p style="text-align: center;"><b>ARTICLE VIII</b></p> <hr/> <p style="text-align: center;"><b>Per Capita, Budget and Audits</b></p> <hr/>	Per Capita Tax
Written Reports	<p><b>Section 3.</b> Each standing committee shall make a written report for submission to the appropriate convention committee.</p>	<p><b>Section 1.</b> <del>(a) Effective September 1, 2018, each local shall pay a per capita tax of \$19.28 per month, of which \$1.10 shall be dedicated to a special AFT fund to engage members and to assist locals in crisis.</del> Effective September 1, 2019, each local shall pay a per capita tax of \$19.58 per month, of which \$1.20 shall be dedicated to a special AFT fund to engage members and to assist locals in</p>	
Committee on Civil and Human Rights	<p><b>Section 4.</b> In addition to the standing committees established and appointed</p>		

	<p>crisis. <u>Effective September 1, 2021, each local shall pay a per capita tax of \$19.98 per month, of which \$1.20 shall be dedicated to a special AFT fund to engage members and to assist locals in crisis.</u> The national office shall pay back to the office of each state federation for each member of the state a per capita of 20 cents per month.</p>	<p>or causes involving controversial issues of public importance only incidentally related to collective bargaining. Employee(s) may not object to expenditures of his/her portion of such payments used for collective bargaining including, but not limited to, negotiating, organizing, servicing, educational research and union administration. That portion of such fees spent by the union, local, state and national level for the above-described purposes will be determined in each fiscal year by the respective chief fiscal policymaking body, and rebate of a prorated portion of his/her service or fair-share fees corresponding to such proration shall be made to each individual who has filed a timely notice of objection each year.</p>	
Agency Fees	<p><b>Section 1.</b> (b) Where a local receives fees from nonmembers for representing them under an agency shop agreement, it shall pay to the national office a sum equal to the per capita tax for all such nonmembers and shall also pay to the state federation of teachers a sum equal to the per capita of the state federation for all such nonmembers. Effective September 1, 1977, each affiliated local that has members within a unit where the bargaining rights have been won by another organization and where the other organization has obtained an agency shop or fair-share clause in the contract, the local shall pay per capita tax at one-fourth the regular rate on those members required to pay agency or fair-share fees to another organization. Representation at the American Federation of Teachers or the state convention shall also be computed at one-fourth the constitutional formula for apportionment of delegate and voting strength. Locals whose members pay agency or fair-share fees to another organization may elect to pay full per capita for such members and receive full representation.</p>	<p><b>Section 1.</b> (d) The procedures adopted shall provide for the right to object during a specific time by registered/certified mail and for the determination of appropriate portions of money spent for purposes described in Section 1(b) and (c). The employee(s) shall have rights of appeal internally and, if not satisfied, shall have the right to appeal to an independent, outside review panel whose decision shall be final and binding.</p>	Time Limitations
State Rebate			Appeal
			State Laws
	<p><b>Section 1.</b> (c) Any local that receives service or fair-share payments in lieu of dues from employee(s) represented by the local shall adopt procedures for such employee(s) to object during a specific time period each year to the expenditure of his/her portion of such payments for certain purposes. Such procedures shall provide that employee(s) may object to expenditure of his/her portion of such payments for activities or causes of a political nature only incidentally related to collective bargaining. Employee(s) may object to the expenditure of his/her portion of such payments for activities</p>	<p>In the event that service or fair-share fees are established through procedures of state law in such a way as to meet the above objections, then Section 1(c) and 1(d) shall not apply.</p>	
		<p><b>Section 2.</b> The budget shall be prepared and adopted annually by the executive council and shall be subject to subsequent revision when needed.</p>	Budget
Procedure for Objections to Agency Fees		<p><b>Section 3.</b> It shall be the responsibility of the executive council to cause the auditing of the financial records of the organization annually and to submit said audits to each convention.</p>	Audit
		<p><b>Section 4.</b> Ten cents of each member's per capita tax shall be set aside each month in a building fund to finance the purchase of an AFT building. The fund shall continue until such time as the purchase has been completed and any additional financial costs of the building</p>	Building Fund

	not covered by income from the building have been met.	
Per Capita Tax Changes	<p><b>Section 5.</b> Proposed changes in per capita must be sent to the national office by March 15 and must be sent by the national office to the locals by April 15.</p>	
Funding for Albert Shanker Institute	<p><b>Section 6.</b> Effective September 1, 2019, 10 cents of each member's per capita tax shall be set aside each month for the Albert Shanker Institute, a tax-exempt organization recognized under §501(c)(3) of the Internal Revenue Service Code.</p>	
Solidarity Fund	<p><b>Section 7.</b> <del>Effective September 1, 2018, \$2.50 and effective September 1, 2019, \$2.60 of each member's per capita tax shall be set aside each month in a special fund that will function to assist the AFT and its affiliates in participating in legislative and political activities with significant potential impact on members of the AFT and the institutions where they work. <u>Effective September 1, 2021, \$2.75 of each member's per capita tax shall be set aside each month in a special fund that will function to assist the AFT and its affiliates in participating in legislative and political activities with significant potential impact on members of the AFT and the institutions where they work.</u> Such assistance shall be collected and utilized in accordance with the provisions of applicable state and federal law. The executive council will adopt guidelines to implement this provision, including the development of criteria and an application for assistance. Where a state affiliate has a fund that is approved by the AFT and similar to the Solidarity Fund, in that it functions to assist the affiliate in participating in legislative and political activities with significant potential impact on the members and the institutions where they work, then the AFT will pay <del>effective September 1, 2018, 96 cents and effective September 1, 2019, the AFT will pay 99 cents per member per month to be deposited in such similar state fund. <u>Effective September 1, 2021, the AFT will pay \$1.04 per member per month to be deposited in such similar state fund.</u></del></del></p>	
<div>ARTICLE IX</div> <div>Affiliate Audit and Financial Review Requirements</div>		
	<p><b>Section 1.</b> AFT affiliates with 2,500 or more members, excluding retirees, are required to submit to the AFT annually, and within six months of the close of the affiliate's fiscal year, an audit of its financial statements—in accordance with generally accepted auditing standards—by an independent CPA whose firm does not have responsibility for the affiliate's regular bookkeeping or for preparation of its routine financial statements. The audit must be prepared in accordance with generally accepted accounting principles. Appended to the audit submission must be a letter signed by the affiliate's principal officer and at least one other elected general officer certifying that the audit has been presented at a specified regular or special meeting of the affiliate's governing body and published and made available to the members.</p>	Affiliate Audits
	<p><b>Section 2.</b> AFT affiliates with 1,000 but fewer than 2,500 members, excluding retirees, are required to submit to the AFT annually, and within six months of the close of the affiliate's fiscal year, an audit or a review of its financial statements—in accordance with generally accepted auditing standards—by an independent CPA whose firm does not have responsibility for the affiliate's regular bookkeeping or for preparation of its routine financial statements. The audit or the review must be prepared in accordance with generally accepted accounting principles. Appended to the audit or the review submission must be a letter signed by the affiliate's principal officer and at least one other elected general officer certifying that the audit or the review has been presented at a specified regular or special meeting of the affiliate's governing body and published and made available to the members. If financial irregularity or financial misfeasance is indicated, the three full-time AFT officers may require an affiliate to submit an audit, rather than a review. If an affiliate is notified that it must submit</p>	Audit Guidelines

an audit, the requirement to do so shall remain in place until the three full-time AFT officers inform the affiliate that it is no longer required.

**Section 3.** AFT affiliates with 300 but fewer than 1,000 members, excluding retirees, are required to submit to the AFT annually, and within six months of the close of the affiliate's fiscal year, an internal review of its financial statements. Such internal review of the affiliate's financial statements must be conducted by an internal audit committee in accordance with the AFT audit guidelines. Appended to the internal review must be a certification letter signed by the affiliate's principal officer and at least one other elected general officer certifying that the internal review has been presented at a specified regular or special meeting of the affiliate's governing body and published and made available to the members. Such affiliates alternatively have the option to submit an independent CPA audit or review following the standards described in Sections 1 or 2 of this article.

**Section 4.** AFT affiliates with fewer than 300 members, excluding retirees, are required to submit to the AFT annually, and within six months of the close of the affiliate's fiscal year, a financial statement compilation of the affiliate's financial records for the year in accordance with the AFT audit guidelines. Appended to the financial statement compilation must be a letter signed by the affiliate's principal officer and at least one other elected general officer certifying that the current financial statement compilation has been presented at a specified regular or special meeting of the affiliate's governing body and published and made available to the members. Such affiliates alternatively have the option to submit an independent audit, independent financial review, or internal financial review following the standards described in Sections 1, 2, or 3 of this article.

**Section 5.** Where a required audit, independent CPA review, internal review, or financial statement compilation has not been completed and received by the AFT within six months of the close of an affiliate's fiscal year, the AFT president is authorized to have the applicable audit, independent CPA review, internal review, or financial statement compilation, pursuant to Section 1, 2, 3, or 4 of this article, conducted at the affiliate's expense. Such an analysis will include an examination of the financial records and a reporting of the results to the membership of the affiliate and to the AFT executive council.

---

## ARTICLE X

---

### Good Standing

---

**Section 1.** To be in good standing in the AFT, affiliates must meet the following requirements:

(a) payment of per capita to the AFT on all members, with arrears not to exceed two months, and to the applicable state federation consistent with its constitution;

(b) current in submission of the affiliate's annual audit, independent financial review, internal review, or financial statement compilation, along with the required certification letter, in keeping with Sections 1, 2, 3, and 4 of Article IX of the AFT bylaws;

(c) current in submission to the AFT of names and addresses for the principal executive and financial officers;

(d) current in submission to the AFT of the names and addresses of current members of the affiliate's executive board;

(e) current in submission of a membership roster; and

(f) current in submission of a copy of the affiliate's up-to-date constitution.

Late  
Audits

Requirements for  
Good Standing



**Section 2.** Only affiliates in good standing shall be eligible for:

(a) representation at the AFT convention. In order to satisfy such good-standing requirements and in addition to the deadlines otherwise set forth in the AFT constitution and bylaws, each affiliate must provide the AFT with the information required in section 1(b)-(f) above no later than 30 days prior to the opening date of the convention.

(b) participation in the AFT Occupational Liability program;

(c) coverage under the AFT Militancy/Defense Fund; and

(d) participation in programs that include staff and financial assistance from the AFT.

---

## ARTICLE XI

---

### **Suspension of Rules and Amendment of Bylaws**

---

Suspension of  
Bylaws

**Section 1.** The special rules of order contained in Article I of these bylaws may be suspended by a two-thirds vote in the same manner as provided by *Robert's Rules of Order Newly Revised* for the suspension of all regular rules of order.

Amendments  
to Bylaws

**Section 2.** The bylaws may be amended by the same procedure as in Article X, Sections 1 through 3, of the constitution. All such amendments shall require a majority vote for their adoption, except those relating to bylaws, which themselves require more than a majority vote, in which case the same vote shall be required to adopt the amendment as required by the bylaws to be amended.

# INDEX

*NOTE: Bylaw articles are indicated by (B) directly following article number.*

	Article	Section	Page		Article	Section	Page
<b>ACTING PRESIDENT</b> .....	VI	3	7	<b>APPEALS</b>			
<b>ADJOURNMENT,</b>				Of agency fees.....	VIII(B)	1(d)	22
<b>OF CONVENTION</b> .....	I(B)	2	17	Of decisions of			
<b>ADMINISTRATORSHIP</b> .....	VI	15	9	executive council.....	IV	12B(9)	6
Emergency .....	VI	15(c)	9		VI	10	8
Process .....	VI	15(b)	9	Of refusal to			
<b>AFFILIATION</b> .....	XI		15	reinstate local .....	IX	5	14
With AFL-CIO.....	XI	1	15	Of suspensions.....	IV	8	5
With state federations .....	XI	2	15	To investigate a local.....	VI	14(a)(i)–(iii)	8
With AFL-CIO local and state				<b>ASSOCIATE</b>			
labor councils .....	XI	3	15	<b>MEMBERSHIP</b> .....	III	9	3
<b>AFL-CIO</b>				<b>AT-LARGE</b>			
Affiliation with .....	XI	1	15	<b>MEMBERSHIP</b> .....	III	4	2
Convention,				Per capita payments for ....	IX	3	14
delegates to .....	V	7	7	<b>AUDIT</b>			
Local and state				Affiliate audits.....	IX(B)	1	23
labor councils .....	XI	3	15	Audit guidelines.....	IX(B)	2,3,4	23,24
<b>AFT NURSES AND HEALTH</b>				Late audits.....	IX(B)	5	24
<b>PROFESSIONALS</b> .....	I		1	Responsibility for.....	VIII(B)	3	22
	II	1,5,6	1	<b>AUDITORS, HIRING OF</b> .....	IX	7	14
	III	1,5	2	<b>BADGES, CONVENTION</b> .....	II(B)	2	18
<b>AFT HIGHER EDUCATION</b> .....	I		1	<b>BALLOTS</b>			
	II	1,5	1	<b>(FOR ELECTIONS)</b> .....	VI(B)	2	20
	III	1,5	2	<b>BALLOTS (FOR</b>			
<b>AFT PARAPROFESSIONALS</b> .....	I		1	<b>REFERENDUM)</b> .....	XII		15
	II	1,5,8	1,2	Counting procedure .....	XII	3	16
	III	1,5	2	Verification .....	XII	4	16
<b>AFT PUBLIC EMPLOYEES</b> .....	I		1	<b>BARGAINING RIGHTS</b> .....	II	1	1
	II	1,5,7	1	<b>BENEFITS, STRIKE</b> .....	IX	1	14
	III	1,5	2	<b>BIAS, OPPOSITION TO</b> .....	II	10	2
<b>AFT RETIREES</b> .....	I		1		III	11	4
	II	12	2	<b>BUILDING FUND</b> .....	VIII(B)	4	22
	III	1	2	<b>BUSINESS SESSIONS,</b>			
<b>AGENCY FEES</b> .....	VIII(B)	1(b)	22	<b>CONVENTION</b> .....	III(B)	2	19
Delegate strength.....	VIII	4	13	<b>BYLAWS</b> .....			17
Internal appeals.....	VIII(B)	1(d)	22	Amendment to.....	XI(B)	2	25
Procedure				Suspension of .....	XI(B)	1	25
for objections to.....	VIII(B)	1(c)	22	<b>CERTIFICATION OF MEMBERSHIP,</b>			
<b>ALTERNATES</b> .....	VIII	1(c)	12	<b>TREASURER'S</b> .....	IX	6	14
	VIII	9	14	<b>CHALLENGE, OF ROLL-</b>			
<b>AMENDMENTS</b> .....	X		14	<b>CALL VOTE</b> .....	I(B)	4(b)	17
Submission of .....	X	1	14	<b>CHARTERS,</b>			
Time limitations .....	X	3	15	<b>ELIGIBILITY</b> .....	III	5	2
To bylaws .....	XI(B)	2	25	Anti-discrimination.....	IV	10	5
Vote requirement.....	X	4	15	Educational workers.....	IV	12B(7)	6
<b>ANTI-DISCRIMINATION,</b>				Emergency			
<b>MEMBERSHIP</b> .....	III	11	4	administratorship.....	VI	15(c)	9
Bias, opposition to.....	II	10	2	Healthcare employees.....	III	5	2
In charters .....	IV	10	5	Local .....	IV	1	4
Standing committee on							
civil and human rights ..	VII(B)	4	21				

	Article	Section	Page
Nonpublic .....	IV	2	4
State .....	IV	3	4
Suspension of .....	IV	8	5
<b>CLASSES OF MEMBERSHIP</b> .....	III	6	3
<b>COLLEGE TEACHERS, INDIVIDUAL MEMBERSHIP</b> .....	III	8	3
<b>COMMITTEE ON CIVIL AND HUMAN RIGHTS</b> .....	VII(B)	4	21
<b>COMMITTEES,</b>			
<b>CONVENTION</b> .....	V(B)		20
Appointment of .....	V(B)	1	20
Assignment changes .....	V(B)	3	20
Choice of .....	V(B)	2	20
Credentials .....	II(B)		18
Program .....	III(B)	1	18
Reporting procedure .....	IV(B)	7	19
Reports from .....	V(B)	4	20
<b>COMMITTEES,</b>			
<b>STANDING</b> .....	VII(B)		21
Appointment .....	VII(B)	1	21
Civil and Human Rights .....	VII(B)	4	21
Continuity .....	VII(B)	2	21
Reports .....	VII(B)	3	21
<b>CONSTITUTIONAL AMENDMENTS COMMITTEE</b> .....	IV(B)	6	19
<b>CONSTITUTION, ENFORCEMENT AND INTERPRETATION OF</b>	VI	10	8
<b>CONSTITUTIONS, STATE AND LOCAL</b> .....	IV	5	4
<b>CONVENTION, AFL-CIO</b> .....	V	7	7
<b>CONVENTION, AFT</b>			
Adjournment .....	I(B)	2	17
Appeals to .....	IX	5	14
Badges .....	II(B)	2	18
Biennial .....	VII	1	11
Business sessions .....	III(B)	2	19
Committee reporting .....	IV(B)	7	19
Committees .....	V(B)		20
Constitutional amendments priority .....	IV(B)	6	19
Delegate seating .....	I(B)	5	18
Executive council, delegates to .....	VII	3	11
Floor admission .....	IV(B)	3	19
General procedure .....	IV(B)		19
Mandates of .....	VI	1	7
Nominations and election procedures .....	VI(B)		20
Order of business .....	I(B)	7	18
Program .....	I(B)	1	17
Quorum .....	I(B)	9	18
Reports to .....	I(B)	8	18
Resolutions duration .....	IV(B)	8	19
Retirees .....	VIII	6	13
Roll-call vote .....	I(B)	4	17
Rules adoption .....	IV(B)	9	20
Sergeants-at-arms .....	IV(B)	5	19
Special convention .....	VII	2	11
Special rules of order for .....	I(B)		17
Speech time limitations .....	I(B)	3	17
Time and place .....	VII	1	11

	Article	Section	Page
<b>COUNCILS, PROGRAM AND POLICY</b> .....	III	2	2
<b>COUNCILS OF LOCALS</b> .....	VIII	1(b)	11
Regional .....	VI	18(a)	11
<b>CREDENTIALS COMMITTEE</b> .....	II(B)		18
Appointment .....	II(B)	1	18
Registration procedure .....	II(B)	2	18
<b>DEBATE, CONVENTION</b> .....	V(B)	5	20
	IV(B)	6	19
<b>DELEGATE STRENGTH</b> .....	VIII	4	13
Agency fees .....	VIII	4	13
<b>DELEGATES</b>			
Allocation of .....	VIII	2	13
Councils of locals .....	VIII	1(b)	12
Election of .....	VIII	1(a)	11
From state federations .....	VIII	1(c)	12
	VIII	5	13
Lists of .....	VIII	1(d)	12
Registration of .....	II(B)	2	18
Retiree .....	VIII	6	13
Seating of .....	VIII	1(e)	12
	I(B)	5	18
<b>DELINQUENCY, PER CAPITA</b> .....	IX	5	14
<b>DEMOCRACY, SUPPORT OF</b> .....	II	11	2
<b>DEMOCRATIC RIGHTS OF MEMBERS, RESTORING THE</b> .....	VI	15(a)(i)	9
Administrator power .....	VI	15(d)	10
Administratorship process .....	VI	15(b)	9
Emergency administratorship .....	VI	15(c)	9
Grounds .....	VI	15(a)	9
Limitation of liability .....	VI	15(f)	10
Termination of administratorship .....	VI	15(e)	10
<b>DISABILITY</b> .....	III	11	4
	IV	10	5
<b>DISBANDING OF LOCAL</b> .....	IV	9	5
<b>DIVISIONS</b> .....	III	1	2
<b>DUES</b>			
Dues determination .....	III	9(d)	3
Interest on arrearage .....	IX	5	14
Pass-through .....	IV	6	5
<b>DUPLICATE MEMBERSHIP</b> .....	IV	12B(6)	6
<b>EDUCATIONAL WORKERS, CHARTER OF</b> .....	IV	12B(7)	6
<b>ELECTIONS</b> .....	VI(B)		20
Time .....	VI(B)	2	20
Of local delegates .....	VIII	1(a)	11
Of state federation delegates .....	VIII	1(c)	12
Of officers .....	V	1	6
	VI(B)	2	20
Of locals .....	IV	5	5
<b>EXECUTIVE COUNCIL</b> .....	V	1	6
Acceptance of gifts .....	VI	16	10
Additional representation .....	VI	8	8

	<i>Article</i>	<i>Section</i>	<i>Page</i>
Appointment of convention committees.....	V(B)	1	20
Appointment of credentials committee.....	II(B)	1	18
Audit powers.....	IX	7	14
Authority.....	VI	13	8
Committees.....	VI	11	8
Duties of.....	VI	1,2,6,7,9	7,8
Meetings.....	VI	12	8
Powers.....	VI		7
Restoring democratic rights	VI	15(a)(i)	9
Rules.....	IV	12B(8)	6
Staffing.....	VI	2,4,5,7	7,8
<b>EXECUTIVE VICE PRESIDENT</b>			
Duties.....	V	4	7
Election of.....	V	1	6
Salary of.....	VI	6	7
Vacancy.....	VI	5	7
<b>FAIR-SHARE FEES</b> .....	VIII(B)	1(b)	22
Delegate strength.....	VIII	4	13
Procedure for objections to.....	VIII(B)	1(c)	22
Internal appeals.....	VIII(B)	1(d)	22
<b>FRIENDS OF THE AFT</b> .....	III	9(c)	3
<b>FINANCIAL STATEMENT, LOCAL</b> .....	IX	4	14
<b>FULL-TIME STAFF RESTRICTIONS</b> .....	VIII	7	13
<b>FUND, MILITANCY/DEFENSE</b> .....	IV	9	5
	VI	14(c)(iv)	9
	IX	1	14
<b>GENDER IDENTITY AND EXPRESSION</b> .....	III	11	4
	IV	10	5
<b>GEOGRAPHIC JURISDICTION</b> .....	IV	12B	6
<b>GOOD STANDING</b> .....	X(B)		24,25
<b>GIFTS</b> .....	VI	16	10
<b>HEALTHCARE RESOURCES</b> .....	II	9	2
<b>HEALTH PROFESSIONALS</b> .....	II	6	1
	III	5	2
<b>HIGHER EDUCATION, AFT</b> .....	I		1
	II	1,5	1
	III	1,5	2
<b>IMPROVE EDUCATION</b> .....	II	8	2
<b>IN-SERVICE TRAINING</b> .....	II	5	1
<b>INVESTIGATIONS, STATE AND LOCAL</b> .....	VI	14(a,b)	8
Determination.....	VI	14(c)	9
Grounds.....	VI	15(a)	9
<b>JURISDICTION</b> .....	III	1,4	2
Geographic.....	IV	12B	6
Multi-employer.....	IV	12B(2)	6
Of locals.....	IV	12A	5
Rules for.....	IV	12B	6

	<i>Article</i>	<i>Section</i>	<i>Page</i>
<b>LAIED-OFF EMPLOYEES, MEMBERSHIP CLASS</b> .....	III	6(c)	3
<b>LOCAL, CHARTERS</b> .....	IV	1	4
Disbanding.....	IV	9	5
Geographic jurisdiction.....	IV	12B	6
Investigation of.....	VI	14(a)	8
Per capita tax.....	IX	3	14
<b>MEETINGS, EXECUTIVE COUNCIL</b> .....	VI	12	8
<b>MEETINGS, LOCAL</b> .....	IV	5	5
<b>MEMBER AT LARGE</b> .....	III	4	2
Per capita payments for ....	IX	3	14
Restrictions.....	IV	12B(4)	6
<b>MEMBERSHIP, QUALIFICATIONS</b> .....	III	3,4	2
Classes of.....	III	6	3
Determining average.....	VIII	3	13
Eligibility.....	III	4	2
Healthcare employees.....	III	1	2
Individual college teachers.....	III	8	3
Minimum number.....	IV	7	5
Student-teachers.....	III	7	3
Supervisors.....	III	12	4
Treasurer's certification of.....	IX	6	14
<b>MILITANCY/DEFENSE FUND</b> .....	IV	9	5
	VI	14(c)(iv)	9
	IX	1	14
<b>NAME (OFFICIAL)</b> .....	I		1
<b>NOMINATIONS, CONVENTION</b> .....	III(B)	2	19
Procedures.....	VI(B)	1	20
Speech limitation.....	VI(B)	1	20
<b>NONPAYMENT, PER CAPITA</b> .....	IX	5	14
<b>NONPUBLIC CHARTERS</b> .....	IV	2	4
<b>NURSES</b> .....	II	6	1
	III	5	2
<b>NURSES AND HEALTH PROFESSIONALS, AFT</b> .....	I		1
<b>OFFICERS</b> .....	V		6
Eligibility.....	V	5	7
<b>ORDER OF BUSINESS, CONVENTION</b> .....	I(B)	7	18
<b>PARAPROFESSIONALS, AFT</b> .....	I		1
	II	1,5,8	1,2
	III	1,5	2
<b>PARLIAMENTARY AUTHORITY</b> .....	XIII		16
<b>PASS-THROUGH</b> .....	IV	6	5
<b>PER CAPITA</b> .....	VIII(B)		21,22
Agency fees.....	VIII(B)	1(b)	22
Changes in.....	VIII(B)	5	23
Delinquency.....	IX	5	14
Entitlements.....	IX	2	14

<i>Article</i>	<i>Section</i>	<i>Page</i>
Militancy/Defense Fund ... IX	1	14
Qualifications for representation ..... VIII	1(f)	13
Reports ..... IX	4	14
<b>POLICY COUNCILS, PROGRAM AND</b> ..... III	2	2
<b>POSTING ROLL-CALL VOTE</b> ..... I(B)	4(d)	17,18
<b>POWERS OF EXECUTIVE COUNCIL</b> ..... VI		7
<b>PRESIDENT, AFT</b>		
Duties ..... V	2	6
Election of ..... V	1	6
Vacancy of ..... VI	3	7
Salary of ..... VI	6	7
<b>PRESIDENT, EXECUTIVE VICE PRESIDENT AND SECRETARY-TREASURER VOTE REQUIREMENT</b> ..... VI(B)	3	21
<b>PROFESSIONAL SERVICE</b> ..... II	5	1
<b>PROFESSIONAL STANDARDS, IMPROVEMENT OF</b> ..... II	5	1
<b>PROGRAM, CONVENTION</b> ..... I(B)	1	17
Program Committee ..... III(B)	1	18
<b>PROGRAM AND POLICY COUNCILS</b> ..... III	2	2
<b>PUBLICATIONS, RIGHT TO</b> ..... IX	2	14
<b>PUBLIC EMPLOYEES, AFT</b> ..... I		1
II	1,5,7	1
III	1,5	2
<b>QUORUM, AT CONVENTION</b> ..... I(B)	9	18
<b>REFERENDA</b> ..... XII		15
Ballot-counting procedure ..... XII	3	16
Ballot verification ..... XII	4	16
Duration ..... XII	6	16
Initiation ..... XII	1	15
Limitations ..... XII	1(c-g)	15,16
Notification of results ..... XII	5	16
Time limit ..... XII	2	16
<b>REGIONAL COUNCILS</b> ..... VI	18(a)	11
<b>REGISTRATION OF DELEGATES</b> ..... II(B)	2	18
<b>REGISTRATION OF VISITORS</b> ..... II(B)	2	18
<b>REINSTATEMENT OF LOCALS</b> ..... IX	5	14
<b>RELATIONSHIP, LOCAL AND STATE</b> ..... II	2	1
<b>REPORTS, PER CAPITA</b> ..... IX	4	14

<i>Article</i>	<i>Section</i>	<i>Page</i>
<b>REPORTS, OF OFFICERS AND EXECUTIVE EMPLOYEES</b> ..... I(B)	8	18
<b>REPRESENTATION</b> ..... VIII		11
Local eligibility ..... VIII	3(a)	13
Per capita qualifications ..... VIII	1(f)	13
<b>RESOLUTIONS, CONVENTION</b> ..... IV(B)	4	19
Duration of ..... IV(B)	8	19
Time limit for submission ..... IV(B)	4	19
<b>RETIREES, AFT</b> ..... I		1
Organize ..... II	12	2
Division ..... III	1	2
Membership, class of ..... III	10	3,4
<b>REVENUES</b> ..... IX		14
Per capita ..... VIII(B)	1(a)	21
<b>RIGHTS, TEACHERS AND OTHER WORKERS</b> ..... II	4	1
<b>ROBERT'S RULES OF ORDER NEWLY REVISED</b> ..... XIII		16
XI(B)	1	25
<b>ROLL-CALL VOTE</b> ..... I(B)	4	17
Challenge ..... I(B)	4(b)	17
Posting ..... I(B)	4(d)	18
Tabulation ..... I(B)	4	17
<b>ROLL-CALL VOTING STRENGTH</b> ..... VIII	8	13
<b>RULES OF ORDER FOR CONVENTIONS</b> ..... I(B)		17
<b>SCHOOL-RELATED PERSONNEL</b> ..... I		1
II	1,5,8	1,2
III	1,5	2
<b>SEATING OF DELEGATES</b> ..... VIII	1(e)	12
<b>SECRETARY-TREASURER, AFT</b> ..... V	1	6
Acting ..... VI	4	7
Election of ..... V	1	6
Duties ..... V	3	6
Salary of ..... VI	6	7
<b>SERGEANTS-AT-ARMS</b> ..... IV(B)	5	19
<b>SEXUAL ORIENTATION</b> ..... III	11	4
IV	10	5
<b>SHANKER, ALBERT INSTITUTE</b> ..... VIII(B)	6	23
<b>SOLIDARITY FUND</b> ..... VIII(B)	7	23
<b>SPEECH LIMITATIONS, AT CONVENTION</b> ..... I(B)	3	17
Speech duplication ..... IV(B)	2	19
<b>STANDING COMMITTEES</b> ..... VII(B)		21
<b>STANDARDS, IMPROVEMENT OF</b> ..... II	5,6,7	1

	<i>Article</i>	<i>Section</i>	<i>Page</i>		<i>Article</i>	<i>Section</i>	<i>Page</i>
<b>STATE CHARTERS</b> .....	IV	3	4	<b>VACANCIES ON EXECUTIVE</b>			
<b>STATE FEDERATIONS</b>				<b>COUNCIL</b> .....	VI	7	8
Affiliation with .....	XI	2	15	In presidency .....	VI	3	7
Delegates from.....	VIII	1(c)	12	Of secretary-treasurer .....	VI	4	7
Requirements.....	VIII	5	13	Of executive vice president.....	VI	5	7
Restrictions .....	VIII	7	13	Of vice presidents.....	VI	7	8
<b>STRIKE, RIGHT TO</b> .....	II	1	1	<b>VICE PRESIDENTS, AFT</b> .....	V	1	6
Militancy/Defense Fund ...	IX	1	14	Employment of.....	V	6	7
<b>STUDENT-TEACHER</b>				Executive vice president....	V	1	6
<b>MEMBERSHIP</b> .....	III	7	3	V		4	7
Charters.....	IV	11	5	VI	5,6	7,8	
Voting status .....	IV	11	5	VI(B)	3	21	
<b>SUBSCRIPTIONS TO OFFICIAL</b>				<b>VICE-PRESIDENTIAL VOTE</b>			
<b>PERIODICALS</b> .....	IX	2	14	<b>REQUIREMENT</b> .....	VI(B)	4	21
<b>SUPERVISORS,</b>				<b>VISITOR TO CONVENTION,</b>			
<b>MEMBERSHIP OF</b> .....	III	3	2	<b>REGISTRATION OF</b> .....	II(B)	2	18
III	12	4		<b>VOTE DISTRIBUTION</b> .....	VIII	8	13
<b>SUSPENSION OF</b>				<b>VOTE REQUIREMENT,</b>			
<b>BYLAWS</b> .....	XI(B)	1	25	<b>AMENDMENTS</b> .....	X	4	15
<b>SUSPENSION OF</b>				President, executive			
<b>CHARTERS</b> .....	IV	8	5	vice president and secretary-			
<b>TABULATION OF ROLL-</b>				treasurer.....	VI(B)	3	21
<b>CALL VOTE</b> .....	I(B)	4	17	Vice-presidential			
<b>TIME LIMITATIONS FOR</b>				candidates.....	VI(B)	4	21
<b>PROPOSED</b>				<b>VOTING IN</b>			
<b>AMENDMENTS</b> .....	X	3	15	<b>REFERENDUM</b> .....	XII	1	15
<b>TRANSFER OF VOTING</b>				<b>VOTING RIGHTS,</b>			
<b>RIGHTS</b> .....	VIII	9	14	<b>TRANSFER OF</b> .....	VIII	9	14
<b>TREASURER'S CERTIFICATION OF</b>				<b>VOTING STATUS, STUDENT-TEACHER</b>			
<b>MEMBERSHIP</b> .....	IX	6	14	<b>MEMBERS</b> .....	IV	11	5
<b>USHERS, CONVENTION</b> .....	IV(B)	5	19	<b>WORKING CONDITIONS,</b>			
				<b>IMPROVEMENT OF</b> .....	II	5,6,7	1

The AFT is affiliated with  
**American Federation of Labor and Congress of Industrial Organizations**  
**Department for Professional Employees, AFL-CIO**  
**Education International**  
**Public Services International**  
**Transportation Trades Department, AFL-CIO**  
**Union Label and Service Trades Department, AFL-CIO**



*A Union of Professionals*

American Federation of Teachers, AFL-CIO  
555 New Jersey Ave. N.W.  
Washington, DC 20001  
202-879-4400



aft.org



AFTunion



@AFTunion



AFTunion



# Constitution of the National Education Association of the United States

## **Preamble**

*We, the members of the National Education Association of the United States, in order that the Association may serve as the national voice for education, advance the cause of public education for all individuals, promote the health and welfare of children and/or students, promote professional excellence among educators, gain recognition of the basic importance of the educator in the learning process, protect the rights of educational and other public employees and advance their interests and welfare, secure professional autonomy, promote, support and defend public employees' right to collective bargaining, unite educational employees for effective citizenship, promote and protect human and civil rights, and obtain for its members the benefits of an independent, united education profession, do hereby adopt this Constitution.*

## **Article I. Name, Goals, Objectives, and Authorities for Governance**

### **Section 1. Name.**

The name of this organization shall be the National Education Association of the United States.

### **Section 2. Goals and Objectives.**

The goals of the Association shall be as stated in the Preamble. The Association shall have all power necessary and proper to take action for the attainment of these goals. Nothing in this Constitution or in the Bylaws shall be construed to prevent the Association from pursuing objectives which are consistent with the stated goals of the Association.

### **Section 3. Governance.**

The Association shall be governed by its Charter, this Constitution, the Bylaws, the Standing Rules, and such other actions as the Representative Assembly, the Board of Directors, and the Executive Committee may take consistent therewith.



## **Article II. Membership**

### **Section 1. Categories of Membership.**

Membership in the Association shall comprise a category of Active members and such other categories as may be provided in the Bylaws.

### **Section 2. Membership Eligibility: Provisions and Limitations.**

a. Membership, as provided in the Bylaws, shall be open to persons who are: (i) engaged in the profession of teaching or in other educational work; or (ii) members of a state affiliate in the state affiliate's membership category that is equivalent to the Association's Active membership category; or (iii) persons interested in advancing the cause of public education. All members of the Association shall agree to subscribe to the goals and objectives of the Association and to abide by its Constitution and Bylaws.

b. Members engaged in teaching or in other educational work shall adhere to the *Code of Ethics of the Education Profession*.

c. An application for membership shall be subject to review as provided in the Bylaws.

d. The Association shall not deny membership to individuals on the basis of race, color, national origin, creed, gender, sexual orientation, gender identity/expression, age, handicap, marital status, or economic status, nor shall any organization which so denies membership be affiliated with the Association.

e. Persons interested in advancing the cause of public education who are granted membership pursuant to section 2.a(iii) above and who are not eligible for any other category of membership shall not have the right to serve as officers of the Association, as members of the Board of Directors, or as delegates to the Representative Assembly.

### **Section 3. Property Interest of Members.**

All right, title, and interest, both legal and equitable, of a member in and to the property of the Association shall end upon the termination of such membership.

## **Article III. Representative Assembly**

### **Section 1. Accountability.**

The Representative Assembly, comprising members of the Association, derives its powers from and shall be responsible to the membership.

### **Section 2. Allocation of Delegates.**

a. Except as otherwise provided in Subsection (c) below, allocation of delegate credentials to state affiliates shall be based on the ratio of 1:1,000 Active members of the Association within the state. No state shall receive fewer than fifteen (15) delegate credentials. Other delegate credentials shall be allocated as provided in the Bylaws.

b. Except as otherwise provided in Subsection (c) below, allocation of delegate credentials to local affiliates shall be based on the ratio of 1:150 Active members of the Association or major fraction thereof. Local affiliates within a state may similarly join together to form membership units for the purpose of representation. Allocation of delegate credentials for such clustered local affiliates shall be based on the ratio of 1:150 Active members of the Association or major fraction thereof.

c. The ratios to be used for the allocation of delegate credentials to state affiliates, dual-national state affiliates, and dual national local affiliates shall be proportionately adjusted to reflect the reduction in Association dues paid by Active members of such affiliates pursuant to Bylaw 2-7.m., provided that this Article III, Section 2 (c) shall not apply to Active members of a dual national local affiliate (i) in a state that does not have a dual-national state affiliate, and (ii) that became affiliated with the Association as a dual-national local affiliate prior to September 1, 1999.

d. The Bylaws shall define the term ethnic minority and shall seek to achieve ethnic-minority representation in the Representative Assembly.

### **Section 3. Election of Delegates.**

a. Members of the Representative Assembly shall be elected in accordance with the one-person-one-vote principle. Specific exceptions to the application of this principle may be set forth in this Constitution and/or the Bylaws.

b. Election to the Board of Directors by the Active NEA members within the state shall constitute election to the Representative Assembly for all purposes.

Election to the Board of Directors by the Active NEA members elected to serve as delegates to the state representative body shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

Election to the Board of Directors as an at-large director or a retired or aspiring educator director shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

Election to executive office or to the Executive Committee shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

Election to the presidency of a state affiliate by vote of members in the state who are eligible to vote in such election shall constitute election to the Representative Assembly for all purposes.

Election to the presidency of a state affiliate by the state representative body shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

Selection as chairperson of the Advisory Committee of Aspiring Educators shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

Election to the presidency of National Education Association-Retired shall constitute election to the Representative Assembly for all purposes except voting in elections for Association officers.

c. Election of delegates to the Representative Assembly shall be by secret ballot for each individual position. The NEA members within each membership group entitled

to delegate allocations as set forth in the Constitution and the Bylaws shall be eligible to vote.

d. If the number of candidates for delegate positions is equal to or less than the number of positions to be filled, elections may be waived, and the candidates declared elected to the delegate positions in question.

#### **Section 4. Seating of Delegates.**

The Representative Assembly shall have jurisdiction over the seating of its delegates.

#### **Section 5. Meetings.**

The Representative Assembly shall meet at least annually. This stipulation shall apply except in cases of emergency.

#### **Section 6. Committees.**

All appointive bodies of the Association except the Review Board shall be designated by the term committee. A Committee on Constitution, Bylaws, and Rules shall be established by the Representative Assembly. All other committees shall be established or discontinued as provided in the Bylaws. All committees except the Advisory Committee of Aspiring Educators shall be comprised of at least one (1) classroom teacher and one (1) education support professional. There shall be a minimum of twenty (20) percent ethnic minority representation on each committee.

#### **Section 7. Functions.**

The Representative Assembly shall:

- a. Establish Association policies and objectives;
- b. Elect the President, the Vice-President, the Secretary-Treasurer, the at-large members of the Board of Directors, and the members of the Executive Committee as provided in this Constitution and/or the Bylaws;
- c. Adopt the budget;
- d. Establish dues;
- e. Approve or ratify the establishment of subsidiary corporate structures;
- f. Exercise final authority in all matters of the Association;
- g. Amend this Constitution and the Bylaws in accordance with Article IX hereof;
- h. Adopt the rules and agenda governing its meetings; and
- i. Enact such other measures as may be necessary to achieve the goals and objectives of the Association which are not in conflict with the Charter, this Constitution, or the Bylaws.

#### **Section 8. Objectives.**

The Representative Assembly may periodically establish specific objectives in the pursuance of the stated goals of the Association.

## **Section 9. Postponement of Annual Meeting.**

In the event of an emergency, the Board may postpone the Annual Meeting as provided by the Bylaws. In the event of such postponement, all officers and members of boards and committees authorized by this Constitution and by the Bylaws shall remain in office until the Representative Assembly convenes. It shall then provide for their successors.

## **Article IV. Executive Officers**

### **Section 1. Executive Officers.**

The executive officers of the Association shall be the President, the Vice President, and the Secretary-Treasurer.

### **Section 2. Qualifications for Executive Officers.**

All candidates for the office of President, Vice President, and Secretary-Treasurer shall have been Active members of the Association for at least two (2) years immediately preceding the election. All executive officers shall maintain Active membership in the Association.

### **Section 3. Elections, Terms, and Salaries.**

- a. The President, the Vice President and the Secretary-Treasurer shall be nominated at and elected by the Representative Assembly at the Annual Meeting in accordance with this Constitution, the Bylaws, and the Standing Rules.
- b. In an election for President, Vice President, or Secretary-Treasurer, if there is only one (1) candidate for the position, the Chair shall declare such candidate elected.
- c. The terms of the President, of the Vice President, and of the Secretary-Treasurer shall be three (3) years beginning September 1 following their election. Each executive officer shall remain in office through August 31 of the year in which a successor is elected, unless otherwise provided in this Constitution. An executive officer shall serve no more than two (2) terms in the office to which elected.
- d. The executive officers shall serve full time; their salaries shall be established by the Board of Directors.

### **Section 4. Affirmative Action Procedure.**

By December 1 of each membership year immediately preceding the next membership year in which a presidential election is to be held (i.e., approximately 18 months prior to the date of the election), appropriate information about the office of President and the electoral process, including all relevant timelines, shall be sent to each of the ethnic-minority special interest groups identified in Bylaw 12; and

During the membership year in which the aforesaid presidential election is to be held, a copy of this section of the Constitution, with an appropriate explanation as to its background and intent, shall be included in (a) an Association publication sent to all members by December 1 and (b) the material that is sent to the delegates to that year's Representative Assembly.

If, after any period of eleven (11) consecutive membership years a member of an ethnic-minority group has not served as President, the Association shall take such steps as may be legally permissible to elect a member of an ethnic-minority group.

## **Section 5. Succession and Vacancies.**

Vacancies occurring by reason of death, resignation, incapacity, judgment of impeachment, or other disqualification shall be filled as follows:

- a. A vacancy in the office of President shall be filled by the Vice President.
- b. If, during the first or second year of a term a vacancy in either the office of Vice President or the office of Secretary-Treasurer occurs, such vacancy shall be filled by the Board of Directors, which shall elect a successor to serve until the next meeting of the Representative Assembly. The Representative Assembly shall then elect a successor for the remainder of the term. In the event a vacancy occurs during the third year of a term, the Board of Directors shall elect a successor for the remainder of the term.

## **Section 6. Impeachment.**

Executive officers of the Association may be impeached for violation of the *Code of Ethics of the Education Profession*, for misfeasance, for malfeasance, or for nonfeasance in office.

- a. Impeachment proceedings against an executive officer shall be initiated by written petition submitted to the Review Board by at least fifteen (15) percent of the certified delegates to the Representative Assembly.
- b. If, after a due process hearing, a two thirds (2/3) vote of the Review Board shall sustain the charge, the office shall become vacant.
- c. The officer may appeal the decision to the Board of Directors.

## **Article V. Board of Directors**

### **Section 1. Composition.**

The Board shall consist of (a) at least one (1) director from each association affiliated with the Association as a state affiliate, (b) six (6) directors for the Retired members of the Association, and (c) three (3) directors for the Aspiring Educator members of the Association.

Except as otherwise provided below, each state unit shall be entitled to an additional director for each 20,000 Active members of the Association, provided that if the number of state directors reaches one hundred fifty (150), the number of directors to which the state units are entitled shall be adjusted to prevent the total from exceeding one hundred fifty (150). The Board of Directors shall adopt rules for implementing this

provision. The number of Active members of the Association that shall be required to entitle a state affiliate or a dual-national state affiliate to an additional director shall be proportionately adjusted to reflect the reduction in Association dues paid by such members pursuant to Bylaw 2-7.m, provided that this Article V. Section 1 shall not apply to Active members of a dual-national local affiliate (i) in a state that does not have a dual-national state affiliate, and (ii) that become affiliated with the Association as a dual-national local affiliate prior to September 1, 1999.

The executive officers and other members of the Executive Committee shall be members of the Board of Directors ex officio.

a. At least one (1) director elected within each state shall be a nonsupervisor and, if a state is entitled to more than one (1) director, at least one (1) shall be a classroom teacher. The total number of additional directors representing the members in each state affiliate after the first shall be on the basis of proportional representation by educational position of NEA members.

b. In the event that the first three (3) directors from a state or the first three (3) retired directors do not include at least one (1) ethnic-minority person, the state affiliate or the retired delegates to the Representative Assembly, as the case may be, shall take all legally permissible steps to elect a fourth director who is from an ethnic-minority group.

c. Members from ethnic minorities shall comprise at least twenty (20) percent of the Board. The Representative Assembly shall elect additional directors as appropriate to assure such ethnic-minority representation. If, between meetings of the Representative Assembly, ethnic-minority representation on the Board falls below twenty (20) percent, the Board shall elect additional directors as appropriate to assure the necessary ethnic-minority representation, provided that such an election can be held at a Board meeting prior to the meeting that takes place in connection with the Annual Meeting. Candidates for these positions shall be nominated by members of the Board and ethnic-minority caucus chairpersons, and any ethnic-minority person who otherwise is eligible to serve on the Board may be a candidate. The person(s) elected shall serve until an election can be held by the next Representative Assembly in accordance with this section.

d. Administrators shall be represented on the Board in proportion to their membership in the Association. If the percentage of administrators elected to the Board of Directors fails to achieve proportional representation, the Representative Assembly shall elect at large the number required to assure such representation. Candidates for these positions shall be nominated by the delegates at the Representative Assembly who are administrators.

e. Classroom teachers in higher education shall be represented on the Board at least in proportion to their membership in the Association. If the percentage of classroom teachers in higher education elected to the Board of Directors fails to achieve such proportional representation, the Representative Assembly shall elect at large the number required to assure such representation. Candidates for these positions shall be nominated by the delegates at the Representative Assembly who are classroom teachers in higher education.

f. Active members employed in education support professional positions shall be represented on the Board at least in proportion to their membership in the Association. If the percentage of such members elected to the Board fails to achieve such proportional representation, the Representative Assembly shall elect at large the number required to

assure such representation. Candidates for these positions shall be nominated by the delegates at the Representative Assembly who are Active members employed in education support professional positions.

g. In elections for at-large positions on the Board of Directors at the Representative Assembly, if the number of candidates nominated equals the number of positions to be filled, the Chair shall declare such candidates elected.

h. Aspiring Educator and retired representation on the Board of Directors shall not be computed in determining the representation entitlements of administrators, classroom teachers in higher education, or Active members employed in education support professional positions.

## **Section 2. Terms of Office.**

a. The terms of office of NEA state, at-large, and retired directors shall be three (3) years, except that a state director may be elected for one year or two years to fill a vacancy or achieve a staggering of terms.

b. NEA state and at-large directors shall serve no more than two (2) terms. Prior service as an aspiring educator director shall not be counted toward the two (2) term limit for state and at-large directors.

c. Retired directors shall serve no more than two (2) terms. Prior service on the Board of Directors in a position other than a retired director position shall not be counted toward the two (2) term limit for a retired director.

d. All candidates for NEA state and at-large directors shall have been Active members of the Association for at least two (2) years immediately preceding the election. All state and at-large directors shall maintain throughout their terms of office Active membership in the Association.

e. Retired directors shall maintain Retired membership throughout their terms of office.

f. One (1) aspiring educator director shall serve a term of two (2) years and two (2) aspiring educator directors shall serve terms of one (1) year. No aspiring educator director may serve more than two (2) years. The directors shall be Aspiring Educator members of the Association.

## **Section 3. Functions.**

Consistent with the goals and objectives and the existing policies of the Association, the Board of Directors shall act for the Association between meetings of the Representative Assembly and in addition shall have the sole responsibility for any matter expressly delegated to it by the Representative Assembly.

## **Article VI. Executive Committee**

### **Section 1. Composition.**

The Executive Committee shall consist of the three (3) executive officers and six (6) members who shall be officers of the Association.

a. The executive officers and the six (6) members of the Executive Committee shall be nominated and elected at large by the Representative Assembly by majority vote and by secret ballot for each individual office.

b. If the number of candidates for the Executive Committee equals the number of positions to be filled, the Chair shall declare such candidates elected.

c. Members from ethnic minorities shall comprise at least twenty (20) percent of the Executive Committee. The Representative Assembly shall elect additional Executive Committee members as appropriate to assure such ethnic-minority representation.

## **Section 2. Qualifications and Terms of Office.**

a. Terms of the Executive Committee members shall be three (3) years beginning September 1 following the election. Such members of the Executive Committee shall not serve more than two (2) terms.

b. All candidates shall have been Active members of the Association for at least two (2) years immediately preceding the election. All Executive Committee members shall maintain throughout their terms of office Active membership in the Association.

## **Section 3. Functions.**

Consistent with the goals and objectives and the existing policies of the Association, the Executive Committee shall act for the Association between meetings of the Board of Directors and in addition shall have the sole responsibility for any matter expressly delegated to it by the Representative Assembly and/or the Board of Directors.

## **Section 4. Impeachment.**

Officers of the Association may be impeached for violation of the *Code of Ethics of the Education Profession*, for misfeasance, for malfeasance, or for nonfeasance in office.

a. Impeachment proceedings against an officer may be initiated by written petition submitted to the Review Board by at least fifteen (15) percent of the certified delegates to the Representative Assembly.

b. If, after a due process hearing, a two thirds (2/3) vote of the Review Board shall sustain the charge, the office shall become vacant.

c. The officer may appeal the decision to the Board of Directors.

## **Article VII. Review Board**

### **Section 1.**

The judicial powers of the Association as described in this Article shall be vested in the Review Board.



## **Section 2. Powers.**

The jurisdiction of the Review Board shall extend to cases as herein defined:

a. The Review Board shall have original jurisdiction in the following cases:

1. Impeachment of an officer who is a member of the Executive Committee;
2. Alleged violations of the *Code of Ethics of the Education Profession*;
3. The censure, suspension, or expulsion of a member;
4. Review, upon request, of an action of the Executive Committee, Board of

Directors, or Representative Assembly regarding consistent application of the Constitution or Bylaws of the Association.

b. The Review Board shall have the following powers subject to the conditions as herein outlined:

1. To impeach an officer. The officer shall have the right to appeal to the Board of Directors;

2. To censure, suspend, or expel a member for violation of the *Code of Ethics of the Education Profession* or other sufficient cause. The member shall have the right to appeal to the Executive Committee on procedural grounds only;

3. To vacate censure, lift suspension, or reinstate a member;

4. To review an action of the Executive Committee, Board of Directors, or Representative Assembly for consistency with the Constitution and Bylaws and to recommend to the appropriate governing body remedial action if necessary. Requests for review may be made only by the Executive Committee, Board of Directors, Representative Assembly, a local or state affiliate (by official action), or upon petition of ten (10) percent of the certified delegates of the Representative Assembly.

## **Section 3. Review Board Appointment.**

The Review Board shall be appointed by the President with the advice and consent of the Board of Directors.

## **Section 4. Review Board Prerogatives.**

The Review Board shall establish its rules of procedure with the approval of the Board of Directors. Due process must be guaranteed in all its proceedings.

## **Section 5. Impeachment.**

a. Members of the Review Board may be impeached for violation of the *Code of Ethics of the Education Profession*, for misfeasance, for malfeasance, or for nonfeasance in office.

b. The process for impeachment of Review Board members shall be as follows:

1. Proceedings against a member of the Review Board shall be initiated by action of the Representative Assembly, or by official action of a local or state affiliate or upon petition of ten (10) percent of the certified delegates of the Representative Assembly under rules determined by the Board of Directors.

2. An affirmative vote of the Executive Committee shall be required to order an impeachment hearing on specified charges.

3. An affirmative vote of at least two thirds (2/3) of the members of the Executive Committee shall be required to sustain a charge following a due process hearing before the Committee and the position shall become vacant.

4. The member has the right to appeal the Executive Committee decision to the Board of Directors. No member of the Executive Committee shall be a party to the appellate procedure.

## **Article VIII. Affiliates and Special Interest Groups**

### **Section 1. Affiliation.**

Affiliation shall mean a relationship based on a reciprocal contractual agreement between the Association and an organization involved with or interested in education and shall continue until the affiliate withdraws or becomes disaffiliated.

### **Section 2. Ethnic-Minority Representation.**

Affiliates of the Association shall take all reasonable and legally permissible steps to achieve on their elective and appointive bodies ethnic-minority representation that is at least proportionate to the ethnic-minority membership of the affiliate.

### **Section 3. Classes.**

The classes of affiliates shall be governance, nongovernance, and such other affiliates as may be provided in the Bylaws.

a. The governance class shall comprise local and state affiliates exclusively.

b. The nongovernance class shall comprise all other affiliated professional and nonprofessional organizations.

### **Section 4. Rights of Active Members in Governance Affiliates.**

Each governance affiliate shall guarantee its active members an open nomination procedure and a secret ballot except as otherwise provided in this Constitution or in the Bylaws. No governance affiliate shall discriminate against its active members in their right to vote, seek office, or otherwise participate in the affairs of the affiliate, of other governance affiliates, or of the Association.

### **Section 5. Standards and Procedures for Affiliation.**

Affiliates which fail to comply with standards and procedures set forth in the Bylaws shall be subject to censure, suspension, or disaffiliation as prescribed in this Constitution.

## **Section 6. Special Interest Groups.**

Any organized group of Association members having a common interest or purpose may be recognized as a Special Interest Group, provided such group is not eligible for any class of affiliation.

## **Article IX. Amendment of Constitution and Bylaws**

### **Section 1. Proposal of Amendments.**

Amendments to the Constitution or the Bylaws may be proposed to the Representative Assembly by one or more of the following methods:

a. By petition signed by at least one hundred (100) Active members from two (2) or more states and submitted to the Committee on Constitution, Bylaws, and Rules for presentation to the Representative Assembly;

b. By petition signed by at least fifty (50) certified delegates and submitted to the Committee on Constitution, Bylaws, and Rules for presentation to the Representative Assembly;

c. By at least two (2) state delegations in the Representative Assembly whose concurrence in the proposed amendment is evidenced either by a majority vote of those delegates present and voting in each delegation at a regularly called meeting of the delegation held in connection with the Annual Meeting or by petition signed by a majority of the members of each delegation. Proposals shall then be submitted to the Committee on Constitution, Bylaws, and Rules for presentation to the Representative Assembly.

d. By majority vote of the NEA Board of Directors and submitted to the Committee on Constitution, Bylaws, and Rules for presentation to the Representative Assembly; or

e. By a majority vote of the Committee on Constitution, Bylaws, and Rules.

### **Section 2. Amendment of the Constitution.**

a. A proposed amendment to the Constitution shall be presented in writing to the Committee on Constitution, Bylaws, and Rules postmarked no later than seventy (70) days following the close of the prior year's Representative Assembly. Documentation of timely submission of an amendment shall be the responsibility of the contact person for the amendment, provided that the time of submission of an amendment that is proposed by a majority vote of the NEA Board of Directors shall be when the language of the amendment is approved by the Board of Directors.

b. The text of the proposed amendment shall be provided to all members at least sixty (60) days prior to its consideration through NEA printed or electronic media.

c. This Constitution may then be amended at the Annual Meeting by a two-thirds (2/3) vote of delegates present and voting.

### **Section 3. Amendment of the Bylaws.**

a. A proposed amendment to the Bylaws shall be presented in writing to the Committee on Constitution, Bylaws, and Rules, postmarked no later than one hundred twenty (120) days preceding the Annual Meeting. Documentation of timely submission of an amendment shall be the responsibility of the contact person for the amendment, provided that the time of submission of an amendment that is proposed by a majority vote of the NEA Board of Directors shall be when the language of the amendment is approved by the Board of Directors.

b. The text of the proposed amendment shall be provided to all members at least sixty (60) days prior to its consideration through NEA printed or electronic media.

c. The Bylaws may then be amended at the Annual Meeting by a majority vote of the delegates present and voting.

### **Section 4. Voting on Amendments.**

a. Voting on proposed amendments to this Constitution or to the Bylaws shall be by secret ballot.

b. Unless otherwise provided, all amendments shall take effect at the beginning of the fiscal year following their adoption.

### **Section 5. Withdrawal of Proposed Amendments.**

Requests for withdrawal of proposed amendments shall be submitted in writing to the Committee on Constitution, Bylaws, and Rules. Such withdrawal shall be effective when approved by the Representative Assembly. Requests for withdrawal of proposed amendments to this Constitution or to the Bylaws may be granted by action of the Representative Assembly based on requests made in the following manner:

a. If originally proposed by petition of one hundred (100) or more members from two (2) states or fifty (50) or more delegates, the request shall be signed by at least two-thirds (2/3) of such members or delegates;

b. If originally proposed by two (2) state delegations, the request shall be signed by at least two-thirds (2/3) of the delegates from each state;

c. If originally proposed by the NEA Board of Directors, the request shall be made by a majority of the Board;

d. If originally proposed by the Committee on Constitution, Bylaws, and Rules, the request shall be made by a majority of the committee.

# Bylaws of the National Education Association of the United States

## 1. Objectives

### 1-1. Specific Objectives.

The specific objectives directed toward the achievement of the stated goals of the Association shall be:

- a. To improve the structure of the Association to ensure the full and effective participation of all members, thereby establishing and maintaining an independent, self-governing organization;
- b. To promote continuous improvement of instruction and of curriculum;
- c. To promote and to protect the rights and welfare of its members;
- d. To advance professional rights and to enhance professional responsibilities to further the consistent development and improvement of the profession and its practitioners;
- e. To work among the American people for broad support of education and for improved attitudes toward the profession;
- f. To secure adequate financial support for public education;
- g. To promote the rights and welfare of all students;
- h. To assist students in realizing their maximum potential;
- i. To develop and provide leadership in solving social problems; and
- j. To protect and support its members as employees in disputes with employers or with those acting on behalf of employers.

## 2. Membership

### 2-1. Categories.

a. There shall be seven (7) categories of membership in the Association: Active, Aspiring Educator, Retired, Substitute, Reserve, Community Ally, and Staff.

b. Active membership shall be open to any person (i) who is employed by or in a public school district, public or private preschool program, public or private college or university, or other public institution devoted primarily to education, regardless of the specific nature of the functions that the person performs at the work site and regardless of who actually employs the person; (ii) who is employed by a public sector employer other than a school district, college or university, or other institution devoted primarily to education but who is employed primarily to perform educational functions; (iii) who is on limited leave of absence from the employment described in items (i) and (ii) above; (iv) who is a member of a state affiliate in the state affiliate's Active (or equivalently designated) membership category; (v) who is serving as an executive officer of the Association or of a state or local affiliate; or (vi) who is elected to serve as an Executive

Committee member and whose employment as described in (i) or (ii) above is subsequently involuntarily terminated before the end of their current term. The Association shall continue to allow Active membership to those Active members (i) who have been laid off due to a reduction in force for as long as such persons are eligible to be recalled, or for three (3) years, whichever is longer; or (ii) who have been discharged for as long as a legal challenge to such discharge is pending.

Notwithstanding any other provision in these Bylaws, a person who is an Active member of the Association pursuant to Bylaw 2-1.b(iv) may continue such membership only while remaining a member of the state affiliate in the Active (or equivalently designated) membership category.

An Active member who is engaged in or on a limited leave of absence from professional educational employment shall hold or shall be eligible to hold a baccalaureate or higher degree or the regular teaching, vocational, or technical certificate required by the member's employment or shall be an exchange teacher who is regularly employed as a teacher in another country.

Active membership is limited to persons who support the principles and goals of the Association and maintain membership in the local and state affiliates where eligible. The Association shall not accept as Active members persons who are not eligible for Active membership (or the equivalently designated membership category) in the state affiliate, unless the state affiliate (i) by action of its board of directors (or equivalent governing body) approves such acceptance and (ii) enters into an agreement with the Association pursuant to which the state affiliate agrees to function as the Association's agent for the delivery of Association services and programs to the members in question. Approval by and a service agreement with the state affiliate shall not be prerequisites to the Association's acceptance into Active membership of persons who are not eligible for active membership (or the equivalently designated membership category) in the state affiliate if said persons are members of a local affiliate that (i) is comprised predominantly of persons who are not eligible for active membership in the state affiliate and (ii) was a local affiliate of the Association as of the effective date of this amendment.

c. Aspiring Educator membership shall be open to any aspiring educator (i) who is enrolled in a postsecondary program that is preparatory for employment in a position that would make the aspiring educator eligible for Active membership or (ii) who is serving as chairperson of the NEA Advisory Committee of Aspiring Educators. An aspiring educator who is eligible for Association membership in both the Aspiring Educator and Active membership categories may, with the approval of the Executive Committee, join the Association as an Aspiring Educator member. Aspiring Educator members shall be eligible to be voting delegates at the Representative Assembly. Aspiring Educator members shall maintain membership in the state affiliate provided the affiliate has a membership category for Aspiring Educator members.

d. Retired membership shall be open to any person who is at least forty-five (45) years of age or who is eligible to receive a pension from an educational employment retirement system (including Social Security), and who was employed for at least five (5) years in a position that qualified the member for Active membership but who is no longer so employed or who retires and returns to either day-to-day or regular full- or part-time educational employment as part of an early retirement agreement with the local school district. Retired membership is limited to persons who support the purposes and programs

of the Association. Retired members shall maintain membership in the state affiliate provided the affiliate has a membership category for retired members and provided the affiliate grants such members at least the right to serve as delegates to its delegate assembly or equivalent body and to be counted toward the representation entitlement for such body.

Retired members shall have the right to vote, to hold elective or appointive positions in the Association, and to be counted toward the representation entitlement for the Board of Directors and the Representative Assembly as provided in the Constitution and Bylaws.

Retired members shall be eligible to receive Educators Employment Liability Coverage and other benefits and services of the Association authorized by the Board of Directors.

Unless these Bylaws provide otherwise, a person who is eligible for Association membership in both the Retired and Active membership categories shall have the option to join the Association as a Retired or as an Active member.

An Active Life member who is eligible for Retired membership may join the Association as a Retired member while retaining Active Life membership, provided that during the period of such membership, the member shall be counted for the allocation of delegate credentials, be eligible to participate in Association governance, be eligible to receive Association benefits and services, and be treated for all other Association purposes only as a Retired member.

e. Unless otherwise provided herein, an educational employee employed on a day-to-day basis who is eligible for membership in the Active category shall have the option of joining the Association as a Substitute member, unless said employee is eligible for NEA Retired membership. The option to join the Association as a Substitute member shall be available only to an educational employee who is employed in a state in which the state affiliate has a substitute membership category and who maintains membership in the state affiliate's substitute membership category. Substitute members shall receive Educators Employment Liability coverage and other benefits and services authorized by the Board of Directors. Educational employees employed on a day-to-day basis who are included in a bargaining unit with full-time educational employees shall be eligible only for Active membership.

f. Reserve membership shall be open to any person (i) who is on a leave of absence of at least six (6) months from the employment that qualifies the member for Active membership or (ii) who has held Active or Education Support membership in the Association but whose employment status no longer qualifies that individual for such membership.

g. Community Ally membership shall be open to any person interested in advancing the cause of public education, who supports the mission, vision, and core values of the Association, and who is not eligible for any other NEA membership category. The NEA Board of Directors shall adopt rules to implement this membership category. Community Ally members shall not have the right to nominate or vote for candidates for elected office, nominate or vote for delegates to the Representative Assembly, or hold any elected office or appointed committee position in the Association.

h. Staff membership shall be open to any person employed by the Association or any of its affiliates in a staff position.

i. Unless these Bylaws provide otherwise, a person who is eligible for more than one (1) membership category shall join the Association in the membership category that provides the greatest degree of participation in Association governance.

j. A member may appeal the assigned category of membership to the Executive Committee, which shall have authority to make the final determination in this regard.

### **2-3. Rights and Limitations.**

a. Membership in the Association shall be determined by the local or state affiliate. Where Association membership is denied on the local level by virtue of educational position, the state may provide for such membership by vote of the state delegate assembly. Educational positions eligible for membership shall be determined through secret ballot in all local or state affiliates. Those local associations limited in membership to classroom teachers may be exempt from such determination.

b. The right to vote and to hold elective or appointive position shall be limited to Active members except as otherwise provided.

c. All members shall be eligible to receive special services, assistance in the protection of professional and civil rights, and reports and publications of the Association in accordance with the policies and procedures of the Association.

d. An individual who is a member of a negotiating team representing a school board or representing a board of trustees of a higher education institution shall be denied membership if such denial is requested by a governing body of an Association affiliate in the school district or higher education institution in question. The Executive Committee shall adopt rules for implementing this Bylaw.

e. An individual who is expelled or suspended by a local or state affiliate for violation of the affiliate's code of ethics or other sufficient cause shall be expelled or suspended, as may be appropriate, by the Association, unless the individual was expelled or suspended by the affiliate without being accorded due process or for conduct in support of a goal, objective, or written policy of the Association.

f. Active Life members at the time of adoption of this document by the Representative Assembly shall continue to hold Active membership for life; Associate Life members shall continue to hold Associate membership for life. A past president of the Association shall hold Active membership for life. If the employment status of a past president does not meet the requirements of Bylaw 2-1.b, the education position of said individual shall be category 2.

g. Any member, other than a Life member, whose profession or occupational position changes shall be transferred to the class of membership applicable to the new position; the member shall not remain in a class of membership for which the member is no longer eligible.

h. Membership shall be continuous unless terminated for sufficient cause, including but not limited to the unjust use of administrative authority to break a strike, to lock out, to reduce in force, to fire, or to harass an NEA member. Sufficient cause, including "unjust use," shall be decided by the Review Board on a case-by-case basis.



i. Members who fail to adhere to any of the conditions of membership as stated in Article II of the Constitution shall be subject to censure, suspension, or expulsion.

## **2-5. Membership Year.**

a. The membership year shall be from September 1 through August 31. A person who is not a continuing member of the Association who joins the Association for a particular membership year shall become a member of the Association as of September 1 of that membership year, or the date on which the member joined the Association, whichever is later.

b. If a person who is not a continuing member of the Association joins the Association for a particular membership year prior to September 1 of that membership year, and the school year that corresponds to the Association membership year begins for that person prior to September 1, the member shall be eligible to receive the benefits and services of the Association authorized by the Board of Directors during the portion of the school year between the date that the member joined the Association and September 1.

## **2-7. Membership Dues.**

a. Dues of Active members engaged in or on limited leave of absence from professional educational employment shall be .00225 times the national average annual salary of classroom teachers in the public elementary and secondary schools (rounded to the nearest dollar) plus .00055 of the national average annual salary of classroom teachers in the public elementary and secondary schools (rounded to the nearest dollar) to be allocated to UniServ grants according to the policy of the Board of Directors. The computation shall be based on salary data for the prior year as determined by NEA Research.

The dues of an Active member who has left professional educational employment to serve as an executive officer of the Association or of a state or local affiliate shall be equal in amount to the dues of an Active member engaged in or on a limited leave of absence from professional educational employment.

Dues of Active members who are employed in or on limited leave of absence from education support professional positions shall be determined in the same manner as the dues of Active members engaged in professional educational employment except that the national average annual salary of school employees in education support positions shall be used in the formula and the dues shall in no event be less than one-half (1/2) the dues of Active members engaged in professional educational employment. The portion of said dues allocated to UniServ grants shall be equal in amount to that allocated on behalf of Active members engaged in professional educational employment.

The dues of an Active member who has left an education support professional position to serve as an executive officer of the Association or of a state or local affiliate shall be equal in amount to the dues of an Active member employed in or on a limited leave of absence from an education support professional position.

The dues of persons who are Active members of the Association pursuant to Bylaw 2-1.b (iv) shall be equal in amount to the dues of similarly situated Active members who are either (i) engaged in or on limited leave of absence from professional

educational employment, or (ii) employed in or on limited leave of absence from educational support positions, based on the categorization used by the state affiliate to determine the state affiliate's dues for such persons.

Any person (i) who joins as an Active member after the commencement of the membership year, (ii) who becomes eligible for Active membership after the commencement of the membership year, or (iii) who returns to professional educational employment or to an education support professional position from a limited leave of absence after the commencement of the membership year shall be enrolled in full standing for the remainder of the membership year by paying the amount of annual dues which is commensurate with the remaining portion of the membership year.

b. The dues of an Active member who is an exchange teacher from another country shall be waived, provided that the exchange teacher continues to hold membership in a national teacher organization in the country of residence, the national teacher organization grants full membership rights and a dues waiver to any NEA member who is an exchange teacher in that country, and the relevant state and local affiliates grant full membership rights and a dues waiver to the exchange teacher.

c. The Association shall allow credit to first-year Active members who join the Association during their first year of membership eligibility, the reduction of their dues being twenty dollars (\$20) per year for each year of their membership in Aspiring Educator NEA and/or for each year of their NEA Aspiring Educator membership up to four (4) years. The first-year Active member shall provide proof of membership in Aspiring Educator NEA to be eligible for credit, and the Association shall verify NEA Aspiring Educator membership.

d. The membership fee for persons eligible for Active membership who are regularly employed for fifty (50) percent or less, but greater than twenty-five (25) percent, of the normal schedule for a fulltime employee, who are not employed as substitutes, and who are not eligible for membership as a full-time employee through another local association (as verified by the local association) shall be one half (1/2) of the Active dues, as appropriate. The membership fee for persons eligible for Active membership who are regularly employed for twenty-five (25) percent or less of the normal schedule for a full-time employee, who are not employed as substitutes and who are not eligible for membership as a full-time or part-time employee through another local association (as verified by the local association) shall be one-quarter (1/4) of the Active dues, as appropriate.

e. The membership fee for Active members who are employed as substitutes shall be one-fourth (1/4) of the Active dues, as appropriate.

f. The Association shall continue to allow Active membership to those education association members laid off due to a reduction in force with reduction in dues of fifty (50) percent. Such eligibility for Active membership shall continue as long as such persons are eligible to be recalled or for three (3) years, whichever is longer.

g. Annual dues of Aspiring Educator members shall be established by the Representative Assembly in the program budget.

h. Dues of Retired members shall be established by the Board of Directors and shall be payable (i) by a retired individual who joins the Association on an annual basis or (ii) through a Retired membership-for-life program as established by the Board of Directors. The annual and membership-for-life dues of any Retired member who joins

after the 2020-2021 membership year and who was an Active ESP member at the time of retirement shall be sixty percent (60%) of the dues of Retired members as established by the Board of Directors.

i. Dues for Substitute members shall be established by the Board of Directors.

j. Dues of Reserve members shall be one-half (1/2) the dues of Active members, as appropriate.

k. Dues of Staff members shall be one half (1/2) the dues of Active members engaged in professional educational employment.

l. Dues of Community Ally members shall be established by the Representative Assembly in the program budget.

m. The Executive Committee may establish reduced membership dues for persons eligible for Active membership who are included in a group of employees (i) that is attempting to become an affiliate of the Association; (ii) for which an affiliate of the Association is attempting to become the recognized organization; (iii) for which an affiliate of the Association is the recognized organization, but has not yet negotiated an initial collective bargaining agreement; (iv) in which a competing organization is attempting to solicit members by charging a lesser amount of dues; or (v) who are not eligible for membership in a state or local affiliate of the Association. The amount of the dues charged to such persons, and the Association services and benefits for which they are eligible, shall be determined by the Executive Committee on a case-by-case basis. The Executive Committee shall adopt rules for implementing this Bylaw.

n. (1) Except as otherwise provided in Bylaw 2-7.m (2) with regard to members of certain dual-national local affiliates, or in Bylaw 8-11.c with regard to persons eligible for Active membership in the Association pursuant to Bylaw 2-1.b (iv), members of a dual-national state affiliate shall maintain membership in the Association and the American Federation of Teachers where eligible, and the total combined national dues that such members pay shall be not less than the Association dues for members in the relevant membership category. If a member of a dual-national state affiliate is a member of the Association and the American Federation of Teachers, said member's total combined national dues shall be allocated between the two organizations in a manner that reflects the comparative number of members in the relevant membership category who were eligible for Association membership in the respective Association and American Federation of Teachers state affiliates during the membership year immediately preceding the date on which the dual-national state affiliate came into existence as a legal entity (hereinafter "allocation percentage"), provided (a) if, during any of the first five (5) membership years following the affiliation of a dual-national state affiliate, the number of such members exceeds by more than three percent (3%) the number of such members during the immediately preceding membership year, each organization shall receive fifty percent (50%) of the total combined national dues of such excess members; (b) beginning with the sixth membership year following the affiliation of a dual-national state affiliate, if the number of such members during any membership year exceeds the number of such members during the immediately preceding membership year, each organization shall receive fifty percent (50%) of the total combined national dues of such excess members; and (c) the Association shall not receive pursuant to Section 2-7.m (1) (a) or 2-7.m (1) (b) above, more from any such member than the allocation percentage, or fifty percent (50%), whichever is appropriate as applied to Association dues for the relevant

membership category. If the member is a member of the Association but is not eligible for membership in the American Federation of Teachers, the Association shall receive the full amount of said member's total combined national dues.

(2) If a member of a dual-national local affiliate (a) that is in a state that does not have a dual-national state affiliate, or (b) that is in a state that has a dual-national state affiliate but is newly created and did not result from the merger of an Association local affiliate and an American Federation of Teachers local affiliate, is a member of the Association and the American Federation of Teachers, each organization shall receive fifty percent (50%) of said member's total combined national dues, provided that the Association shall not receive more than fifty percent (50%) of the Association dues for the relevant membership category. If the member is a member of the Association but is not eligible for membership in the American Federation of Teachers, the Association shall receive the full amount of said member's total combined national dues.

The national dues of members in any merged local affiliate with 20,000 members or more in the membership year prior to the merger shall be determined in accordance with Bylaw 2-7m(1), not Bylaw 2-7m(2).

(3) The provisions of Bylaw 2-7.m shall take precedence over anything to the contrary in Bylaw 2-7.a through l.

o. Beginning with the 2007-08 membership year, the annual membership dues of Active members of the Association, as computed pursuant to Bylaw 2-7.a, shall be increased by ten dollars (\$10.00), with an additional increase of ten dollars (\$10.00) beginning in the 2011-2012 membership year. This dues increase shall be allocated to the Ballot Measure/Legislative Crises and Media Campaign Fund. The annual membership dues of Aspiring Educator members of the Association, as established pursuant to Bylaw 2-7.g, shall include one dollar (\$1.00) to be allocated to the Ballot Measure/Legislative Crises and Media Campaign Fund.

Sixty percent (60%) of the money allocated to the Ballot Measure/Legislative Crises and Media Campaign Fund during each membership year shall be available to assist state affiliates in dealing with ballot measures and legislative crises, and forty percent (40%) shall be available for national and state media campaigns to advance the cause of public education and publicize the role of the Association and its affiliates in improving the quality of public education.

Where necessary to avoid legal problems under state law, the Association and a state affiliate may, at the request of the state affiliate, enter into a written agreement providing that the money collected from members of that state affiliate shall not be used to deal with ballot measures, but shall be used only to deal with legislative crises and/or to fund national and state media campaigns. The Executive Committee shall develop guidelines to implement this Bylaw. These guidelines shall be submitted to the Board of Directors, and shall become effective when approved by the Board of Directors.

The NEA president shall make a report regarding the operation of the Ballot Measure/Legislative Crises and Media Campaign Fund, which shall include a financial statement, to each Representative Assembly.

p. Beginning with the 2002–2003 membership year: (1) Active members engaged in or on limited leave of absence from professional educational employment who pay annual dues as calculated pursuant to Bylaw 2-7.a (hereinafter “base annual dues”) shall pay an additional one dollar (\$1) in annual dues; and (2) Active members who pay less

than base annual dues, Reserve members, and Staff members shall pay an additional fifty cents (\$.50). These additional dues shall be allocated to the NEA Foundation for the Improvement of Education.

q. Beginning with the 2013-2014 membership year, the annual membership dues of Active members of the Association, as computed pursuant to Bylaw 2-7a, shall be increased by three dollars (\$3.00). These dues increases shall be allocated to a Special Fund to help NEA affiliates advance the goal of great public schools for all students.

The Executive Committee shall develop guidelines to implement this Bylaw. These guidelines shall be submitted to the Board of Directors, and shall become effective when approved by the Board of Directors

The NEA president shall make a report regarding the operation of the Special Fund, which shall include a financial statement, to each Representative Assembly.

## **2-9. Dues Transmittal and Enforcement Procedures.**

a. The Association shall enter into contracts with state affiliates governing the transmittal of Association dues. State affiliates shall have the full responsibility for transmitting Association dues from local affiliates on a contractual basis. Local affiliates shall have the full responsibility for transmitting state and Association dues to state affiliates on a contractual basis. Standards and contracts for transmitting dues shall be developed between the state affiliate and each local affiliate.

b. A local shall transmit to a state affiliate and a state affiliate shall transmit to the Association at least forty (40) percent of the Association dues receivable for the year by March 15 and at least seventy (70) percent of the Association dues receivable for the year by June 1; the percentage shall be based upon the last membership count prior to January 15, and upon a membership year beginning September 1, unless the contracted transmittal schedule stipulates otherwise.

(1) A local or state affiliate which becomes delinquent in its contracted transmittal schedule by more than thirty (30) days shall be assessed a penalty of two (2) percent per month on the overdue balance.

(2) Except as otherwise provided in 2-9.b (3) or (4), the delegates representing a state affiliate that has not transmitted at least forty (40) percent of the dues receivable for the year by March 15 and seventy (70) percent of the dues receivable for the year by June 1 shall have no right to participate in the NEA Representative Assembly at the Annual Meeting other than to (i) participate in elections for Association officers and (ii) vote on increases in Association membership dues.

(3) Except as otherwise provided in 2-9.b (4), if a state affiliate informs the NEA in writing that a local affiliate has failed to transmit the Association dues in accordance with the dates set forth in 2-9.b and such information is verified by the executive director, the delegates of that local shall have no right to participate in the NEA Representative Assembly at the Annual Meeting other than to (i) participate in elections for Association officers and (ii) vote on increases in Association membership dues. In this event, the delegates of the state affiliate shall have full right to participate in the NEA Representative Assembly at the Annual Meeting.

(4) The denial of participatory rights called for in 2-9.b (2) or (3) may be waived by the NEA Executive Committee if the state or local affiliate in question enters into a

written contract with the NEA Executive Committee in which it agrees to transmit the delinquent dues on terms that are acceptable to the NEA Executive Committee, provided that the NEA Executive Committee shall not enter into such a contract with a local affiliate until after it has consulted with the relevant state affiliate. The NEA Executive Committee may terminate any waiver granted pursuant to this section if the affiliate fails to comply with the aforesaid contract.

### **3. Representative Assembly**

#### **3-1. Allocation of Delegates.**

a. Allocation of delegate credentials to state and local affiliates shall be on the basis of Active membership in the Association as of January 15 of the calendar year in which the Representative Assembly convenes.

Representation from state and local affiliates which provide all-inclusive membership shall be on the basis of proportional representation by education position.

Representation from state and local affiliates which include in their membership more than one (1) of the three (3) job categories eligible for Association Active membership (i.e., nonsupervisory Active members in prekindergarten through secondary instructional positions, education support positions, or higher education faculty positions) may, at the option of the state and local affiliates, be on the basis of proportional representation by job category. A delegate elected to represent an affiliate shall be a member of that affiliate, provided that if additional delegate positions are allocated to a state affiliate on the basis of Active members of the Association within a state who are not also members of the state affiliate, only the latter members of the Association may be elected to such additional delegate positions.

b. Article III of the Constitution shall provide for the allocation of delegate credentials to local affiliates.

c. Article III of the Constitution shall provide for the allocation of delegate credentials to state affiliates.

d. Except as otherwise provided in Bylaw 3-1.k, each state affiliate shall be allocated one (1) delegate credential for the first fifty (50) Aspiring Educator members of the Association. The state affiliate shall receive a second credential when Aspiring Educator membership in the state reaches seven hundred fifty (750) and an additional credential for each five hundred (500) Aspiring Educator members thereafter. The allocation shall be on the basis of Aspiring Educator membership in the Association as of March 15 of the calendar year in which the Representative Assembly convenes.

e. Except as otherwise provided in Bylaw 3-1.k, allocation of delegate credentials for Retired members of the Association within each state shall be made to state affiliates based on the ratio of 1:50 for the first 50 Retired members and an additional delegate for each 1,000 Retired members thereafter.

f. Except as otherwise provided in Bylaw 3-1.k, allocation of delegates to school nurse members denied active membership in local affiliates shall be based on the ratio of 1:150 school nurse members so denied.

g. It is the policy of the Association to achieve ethnic-minority delegate representation at least equal to the proportion of identified ethnic-minority populations

within the state. Prior to December 1 of each fiscal year, each state affiliate shall submit to the NEA Executive Committee for its approval a legally permissible plan which is designed to achieve a total state and local delegation to the Representative Assembly held that fiscal year which reflects these ethnic-minority proportions. If a state affiliate fails to submit such a plan, the NEA Executive Committee fails to approve a plan which is submitted, or a state affiliate fails to comply with an approved plan, the Representative Assembly may deny to the delegates from the state affiliate any right to participate in the NEA Representative Assembly at the Annual Meeting other than to (i) participate in elections for Association officers and (ii) vote on increases in Association membership dues. Local affiliates shall comply with the approved plan of the state affiliate, and if a local affiliate fails to do so, the right of its delegates to participate in the NEA Representative Assembly at the Annual Meeting may be limited as indicated above. The failure of a state or local affiliate to comply with the provisions of this Bylaw shall in addition be grounds for censure, suspension, or expulsion pursuant to Bylaw 6-5.

h. Except as otherwise provided in Bylaw 3-1.k, allocation of delegates to higher education members denied active membership in local affiliates shall be based on the ratio of 1:150 higher education members so denied. The state affiliate shall determine the most appropriate unit for this purpose.

i. Except as otherwise provided in Bylaw 3-1.k, allocation of delegates to Active members employed in education support professional positions who are denied active membership in local affiliates shall be based on the ratio of 1:150 such members so denied.

j. Except as otherwise provided in Bylaw 3-1.k, allocation for category 2 delegates in local units which have all inclusive membership shall allow for clustering with category 2 members from other local units. In such local units, category 2 members shall not be counted in the allocation for category 1 delegates. Delegates for clustered category 2 members shall be based on the ratio of 1:150. This section shall apply only in those states where the state affiliate has determined that it shall be applicable.

k. The ratios to be used for the allocation of delegate credentials pursuant to Bylaw 3-1.d, e, f, h, i, and j for members of a dual-national state affiliate or a dual national local affiliate shall be proportionately adjusted to reflect the reduction in Association dues paid by such members pursuant to Bylaw 2-7.m, provided that this Bylaw 3-1.k shall not apply to members of a dual-national local affiliate (i) in a state that does not have a dual-national state affiliate, and (ii) that became affiliated with the Association as a dual-national local affiliate prior to September 1, 1999.

### **3-3. Term.**

Delegates shall be elected for a term not to exceed three (3) years. An individual elected to a multiyear term shall serve if the individual and the affiliate continue to qualify for the delegate position.

### **3-5. Meetings: Location.**

No meeting shall be held in any location where any delegates are likely to experience discriminatory treatment.

### **3-9. Standing Committees: Establishment and Accountability.**

Standing committees may be established and discontinued by the Representative Assembly. When that body is not in session, standing committees shall be accountable to the president, the Board of Directors, and the Executive Committee. Each committee chairperson shall submit periodic reports to the president and to the Board.

### **3-11. Special Committees: Establishment and Functions.**

Special committees may be established by the Representative Assembly or by the Board of Directors or by the Executive Committee for the purpose of accomplishing a specific task within a limited period of time.

### **3-13. Committee Appointment, Qualifications, and Vacancies.**

a. Appointments shall be made on the basis of individual expertise and ability to make substantial contribution in the specific areas of concern. Candidates for committees shall be recommended by state and local affiliates and by ethnic-minority special interest groups. The chairperson of the NEA Advisory Committee of Aspiring Educator Members shall recommend aspiring educator candidates for committees. Appointments to all committees shall be as provided by these Bylaws.

b. Absence of a member from two (2) consecutive meetings shall constitute resignation. Each vacancy on a standing committee shall be filled for the remainder of the term.

### **3-15. Voting.**

No signing of new business items can be conducted in the polling area and voting lines during voting.

## **4. Executive Officers**

### **4-1. Powers and Duties of the President.**

The president shall be the chief executive officer of the Association and its policy leader. The president shall:

a. Represent the Association as spokesperson on matters of policy or assign, at the president's discretion, responsibility for such representation;

b. Prepare the agenda for the governing bodies of the Association and the program for the Annual Meetings;

c. Appoint, except as provided in these Bylaws, all chairpersons and members of committees, with the advice and consent of the Board of Directors; such chairpersons and members to serve at the pleasure of the president, except where a term is fixed by these Bylaws;



- d. Serve as member ex officio without vote on all committees authorized by the governing bodies;
- e. Prepare, with the secretary-treasurer, the executive director, and the Committee on Program and Budget, a budget for submission to the appropriate policy-making bodies;
- f. Review Association policies and recommend priorities to be considered by the Board of Directors;
- g. Administer, through the executive director, the budget of the president's office and of the governing bodies;
- h. Recommend an independent auditing agency to conduct an annual audit of all Association funds;
- i. Meet regularly with the other officers of the Association and with the executive director;
- j. Delegate duties to the officers and through the executive director to the staff of the Association; and
- k. Perform the duties as stipulated in the Charter, in the Constitution, and in these Bylaws and such other duties as are customarily assumed by the chief executive officer of an association.

#### **4-3. Powers and Duties of the Vice-President.**

The vice-president shall:

- a. Act for the president when the president is unable to perform the duties of the office;
- b. Advise and assist the president and the Committee on Program and Budget in preparing the budget;
- c. Serve on the Committee on Program and Budget; and
- d. Perform such other duties as are stipulated by the Constitution, by these Bylaws, and by the president.

#### **4-5. Powers and Duties of the Secretary-Treasurer.**

The secretary-treasurer shall:

- a. Receive all funds and be responsible for their safekeeping and accounting;
- b. Serve as chairperson of the Committee on Program and Budget;
- c. Keep the official seal of the Association;
- d. Be responsible for preparing records of all official meetings and for distributing the minutes of all such meetings;
- e. Make annual financial reports as required by the Board of Directors; and
- f. Perform such other duties as are stipulated by the Constitution, by these Bylaws, and by the president.

### **5. Board of Directors**

#### **5-1. Election.**

a. A majority vote of those voting shall be necessary to elect an NEA director. Except as otherwise provided in Article V of the Constitution, members of the Board of Directors shall be elected by secret ballot for each individual office (i) by the Active NEA members within each state or (ii) by the NEA members elected to serve as delegates to the state representative body, but only if all Active NEA members in the state who meet all other relevant requirements are eligible to vote for and serve as delegates to the state representative body. Retired directors shall be elected by secret ballot for each individual office by the duly elected retired delegates to the NEA Representative Assembly. Aspiring Educator directors shall be elected by duly elected aspiring educator delegates to the NEA Representative Assembly. In an election for NEA director, if there is only one (1) candidate for the position, the election may be waived, and the candidate declared elected.

b. Nominations of directors shall be open, except where limitations are required to comply with the provisions of Article V.

c. The Board of Directors shall adopt procedures for challenging the election of a director.

d. Terms of the directors shall be staggered except for aspiring educator directors.

e. If on May 31 of two (2) consecutive years the Active Association membership within a state unit is less than that required to establish and maintain the positions of its directors, the number of its additional directors shall be reduced according to the membership on the second of such two (2) consecutive years.

### **5-3. Vacancies.**

Vacancies arising in the office of state directors held by persons elected within the state or as the result of a state's entitlement to an additional director pursuant to Article V, Section 1, of the Constitution, shall be filled upon recommendation of the state association by the Board of Directors when in session, or when not in session, by the Executive Committee. Vacancies arising in the office of directors held by persons elected by the Representative Assembly shall be filled by the Board of Directors when in session, or when not in session, by the Executive Committee, upon recommendation of the president. Persons filling vacancies, other than vacancies arising as the result of a state's entitlement to an additional director pursuant to Article V, Section 1, of the Constitution, shall be from the same education positions as the members being replaced. All persons filling vacancies shall serve until the first opportunity that a successor or additional director may be elected in accordance with the regular election procedure.

Recommendations to fill vacancies in the office of retired or aspiring educator director shall be made by the NEA-Retired Executive Council or the Advisory Committee of Aspiring Educator Members respectively. Vacancies shall be filled by the Board of Directors when in session, or when not in session, by the Executive Committee. The individual(s) appointed shall serve until the first opportunity that a successor director may be elected in accordance with the regular election procedure.

### **5-5. Membership Restriction.**

A director shall immediately relinquish the position held on the Board when such director ceases to be employed in the category represented.

## **5-6. Alternate Directors.**

a. (i) A state or the retired or aspiring educator delegates to the NEA Representative Assembly may elect an alternate director to serve in the place of a state or retired or aspiring educator director, as the case may be, who is unable to attend a meeting of the Board of Directors. The number of alternate directors need not equal the number of directors in a state or representing NEA-Retired or the number of aspiring educator directors, but in no event shall any alternate director be designated to substitute for more than one (1) director at a meeting. An alternate director must be elected in accordance with the requirements set for the election of NEA directors.

(ii) If, pursuant to Article V, Section 1 of the Constitution, the Representative Assembly elects one or more at-large ethnic minority, administrator, classroom teacher in higher education, or education support professional directors, the Representative Assembly shall also elect one at-large alternate in a particular category to serve in an at-large director's place if the director is unable to attend a meeting of the Board of Directors.

b. An alternate director shall be from the same educational position, or at-large category, as the case may be, as the director who is replaced.

c. Alternate directors shall be certified to the NEA president in the same manner and at the same time as directors.

d. Prior to the opening of a Board meeting, the president of the state affiliate or the president of NEA-Retired or the chairperson of the NEA Advisory Committee of Aspiring Educator Members, or the president of NEA in the case of an at-large alternate director, may request that the alternate director be seated by the Board of Directors if the director is to be absent from that meeting. Alternate directors shall have the right to vote and otherwise participate and shall assume all rights and privileges of the director replaced until the meeting is adjourned, except that they may not be elected to positions filled by and from the Board.

e. An alternate director shall not be a delegate to the NEA Representative Assembly by virtue of seating as an alternate director at any meeting of the Board of Directors.

f. An alternate director temporarily may fill a vacancy in the office of state, retired, aspiring educator, or at-large director in accordance with requirements set forth in these Bylaws.

g. Service as an alternate director, whether prior to or following service as a state, at-large, aspiring educator, or retired director, shall not be counted toward the two-term limit for any director position.

h. Vacancies in the position of alternate director for a state shall be filled upon recommendation of the state association by the Board of Directors when in session, or when not in session, by the Executive Committee.

## **5-7. Functions.**

The Board—

- a. Shall implement policies established by the Representative Assembly;
- b. Shall determine the time and place of the Annual Meeting and, in the event of an emergency, shall have the power to postpone the Annual Meeting by a two-thirds (2/3) vote;
- c. Shall provide for ethnic-minority representation on all committees over which it has direct control;
- d. Shall establish procedures and/or requirements for affiliation consistent with the standards as set forth in these Bylaws;
- e. May establish a committee to review and to recommend recognition or withdrawal of recognition of a Special Interest Group;
- f. Shall receive all reports of the executive director, of the secretary-treasurer, and of committees, and shall transmit with its recommendations such reports as may be appropriate to the Representative Assembly;
- g. May authorize, upon recommendation of the Executive Committee, the establishment of contractual relationships between the Association and nonaffiliated groups whose policies or practices are not discriminatory. Such relationships shall exist to promote specific mutual objectives. Each relationship shall be reviewed at least annually to determine continuation;
- h. Shall set the salaries of the executive officers except that the salaries shall not be increased or decreased during the terms of office for which these officers shall have been elected.

#### **5-9. Fiscal Powers.**

In even-numbered years, the Board shall propose a budget for two (2) fiscal years to the Representative Assembly. The Board shall discharge such other fiscal responsibilities as the Representative Assembly may delegate to it.

#### **5-11. Meetings.**

- a. The Board shall meet four (4) times per year and at other times it deems necessary to conduct the business of the Association.
- b. One (1) meeting shall be held in connection with the Annual Meeting.
- c. The president or a majority of the members of the Board shall determine the time and place of meetings.
- d. Due notice of all meetings shall be given.
- e. The Board shall enact rules and procedures to govern the conduct of its meetings.

#### **5-13. Recall.**

- a. Six (6) months after assuming office, an NEA state director shall be subject to recall in accordance with the provisions of this Bylaw.
- b. Recall proceedings shall be instituted by the filing of a recall petition with the NEA executive director. The recall petition shall be in a form specified by the NEA and

shall, among other things, contain (i) a statement of the specific grounds for the recall and (ii) the signatures of at least five (5) percent of the total number of NEA Active members in the state as of the close of the membership year immediately preceding the membership year in which the petition is filed where NEA directors are elected by all NEA Active members of the state, or signatures of at least thirty-three (33) percent of the NEA Active members who are elected to serve as delegates to the state representative body in the year in which the petition is filed where NEA directors are elected by such delegates.

c. The NEA executive director shall determine whether the recall petition complies with the Association's filing requirements. If it does, the NEA executive director shall send a copy of the recall petition, including any documents filed in support thereof, to the director named in the petition. If the director contends that the attempted recall is based upon actions taken in support of the Constitution, Bylaws, and/or established policies of the NEA, the director may request a review by the NEA Executive Committee. If two-thirds (2/3) of the total membership of the NEA Executive Committee sustains the contention of the director, the recall petition shall be dismissed. If the NEA Executive Committee fails to sustain the contention of the director, or if a request for review is not made, the NEA executive director shall direct the relevant state affiliate to conduct a recall election.

d. A recall election shall be conducted in accordance with rules of procedure adopted by the NEA Board of Directors, provided that (i) where NEA directors are elected by the NEA Active members of the state, all NEA Active members in the state as of the date of the recall election shall be eligible to vote or, where NEA directors are elected by the state representative body, all NEA Active members who are elected to serve as delegates as of the date of the recall election shall be eligible to vote; (ii) the recall election shall be by secret ballot; and (iii) two-thirds (2/3) of the valid ballots cast shall be required for recall.

e. The pendency of recall proceedings shall have no effect upon the right of a director to function as a member of the NEA Board of Directors. If a director is recalled, the resulting vacancy shall be filled pursuant to Bylaw 5-3, provided that the recalled director shall not be eligible for appointment to the vacancy or such other vacancy as may occur in a director position from that state. The recall of a director shall not disqualify the director from subsequent election to the NEA Board of Directors or other NEA office, nor shall it in any other way affect the director's rights as a member of the Association.

f. If a recall petition is filed when there is a pending NEA disciplinary proceeding against the director which could result in removal from the NEA Board of Directors, the processing of the recall petition shall be stayed until the disciplinary proceeding is concluded.

g. The NEA Board of Directors shall adopt rules of procedure to implement the provisions of this Bylaw.

## **6. Executive Committee**

### **6-1. Election.**

a. The Executive Committee shall consist of nine (9) members: president, vice president, secretary-treasurer, and six (6) members elected at-large by the Representative Assembly. Two (2) of the six (6) at-large members shall be elected each year.

b. Nominations of candidates for any of the nine (9) positions on the Executive Committee shall be filed in writing with the NEA executive director no later than April 15 of the year in which the election is to take place. This deadline shall not apply to elections conducted to fill midterm vacancies.

c. The Board of Directors shall adopt procedures for challenging the election of a member of the Executive Committee.

### **6-3. Vacancies.**

The Executive Committee shall be authorized to fill vacancies in its body until the next Representative Assembly.

In the event a vacancy occurs in the office of Executive Committee member within sixty (60) days prior to the start of the Representative Assembly, said vacancy shall be filled by direct election at the Representative Assembly.

### **6-5. Functions.**

The Executive Committee shall have the power to make decisions consistent with the provisions of the Association's Constitution and Bylaws and actions of the Representative Assembly;

a. Shall, upon recommendation of the executive director, approve or reject for cause applications for membership and make assignments to membership classes;

b. Shall charter affiliates pursuant to standards established by the Representative Assembly and requirements or procedures consistent with such standards which may be adopted by the Board of Directors;

c. Shall have the power to censure, suspend, or expel an affiliate pursuant to procedures adopted by the Board of Directors. An association may appeal such decision to the Board of Directors;

d. Shall have the power to reinstate an affiliate pursuant to procedures adopted by the Board of Directors;

e. Shall enter into contracts with state affiliates for dues transmittal as provided in Bylaw 2-9; and

f. Shall, upon recommendation of the executive director, approve or reject appointments of management personnel at the level of unit administrator or higher.

### **6-9. Fiscal Powers.**

The Executive Committee shall:

a. Administer the Capital Improvement Fund;

b. Appoint annually an independent auditing agency with the recommendation of the president and transmit the report of the auditing agency to the Board of Directors;

c. Direct that adequate bonds be required of the executive director, of the secretary-treasurer, and of such other individuals as it shall determine;

d. Discharge such other fiscal responsibilities as the Representative Assembly and/ or the Board of Directors may delegate to it.

## **6-11. Meetings.**

The Executive Committee shall enact rules and procedures to govern the conduct of its meetings.

## **7. Review Board**

### **7-1. Review Board.**

a. The Review Board shall comprise nine (9) members, at least two (2) of whom shall be members of ethnic-minority groups, appointed for five (5) year staggered terms beginning September 1. No person shall be eligible for reappointment to a regular term.

b. Members of the Review Board shall have been Active and/or Retired members of the Association for five (5) consecutive years immediately prior to appointment. Time spent by an Active member in the education support professional membership category shall be counted for purposes of the five (5) year requirement. Members of the Review Board shall maintain Active or Retired membership.

c. A member of the Review Board shall hold no elective or other appointive position in the Association or its affiliates.

d. No executive officer or director shall be appointed to the Review Board within three (3) years following separation from such office.

e. The Association shall reimburse a member of the Review Board for any (i) expenses incurred and (ii) salary lost from employment as a professional educator or other primary employment as a result of the performance of official Association business. Except as provided above, a member of the Review Board shall not accept an honorarium or any other payment from any source at the local, state, or national level of the Association.

f. The Review Board may assign less than a majority of its members to hear cases; however, a member so assigned shall not sit, should the Review Board hear the case on appeal.

g. The president annually shall select the chairperson with the advice and consent of the Board of Directors.

h. The Review Board shall have the discretionary authority, within its allocated budget, to employ consultants or legal counsel.

## **8. Affiliates and Special Interest Groups**

### **8-1. Affiliates.**

a. Affiliates of the Association shall be chartered by a majority vote of the Executive Committee.

b. Each affiliate shall conduct elections with open nominations and a secret ballot, except as may otherwise be provided in the Constitution, these Bylaws, or the Standing

Rules. A secret ballot shall not be required in elections in which the number of candidates nominated does not exceed the number of positions to be filled.

### **8-3. Governance Affiliates.**

a. A local affiliate, the basic unit of self-governance within the Association, may be organized in a manner which comprises any compatible group, meeting at least the minimum standards of affiliation.

b. An organization shall not be eligible for Association affiliation as a dual-national local affiliate unless:

1. The organization is from a jurisdiction:

i. which, by operation of law, has been created by combining, in whole or in part, other jurisdictions in which both Association and American Federation of Teachers local affiliates had representational status; or

ii. in which the Association membership and the American Federation of Teachers membership were relatively equal (i.e., neither organization had more than sixty (60) percent of the combined membership); or

iii. in which, during the preceding six (6) years, both the Association local affiliate and the American Federation of Teachers local affiliate had been officially recognized as the employee representative; or

iv. in a state in which there is a dual-national state affiliate; and

2. The creation of the organization has been approved by at least a two-thirds (2/3) vote of the board of directors (or equivalent governing body) of the relevant state affiliate and by at least a two-thirds (2/3) vote of the board of directors (or equivalent governing body) of any preexisting local affiliate of the Association that was a predecessor of the organization seeking to be a dual-national local affiliate.

c. A state affiliate shall be the association within each state or commonwealth and the associations representing the District of Columbia, Puerto Rico, the Federal Education Association, and such other comparable associations that meet at least the minimum standards of affiliation.

### **8-5. Nongovernance Affiliates.**

a. A professional organization shall comprise at least seventy-five (75) percent Association members with a common occupation or subject matter assignment who are organized to further specific educational objectives. Such organization shall meet at least the minimum standards for nongovernance affiliation.

b. A nonprofessional organization shall be an auxiliary or service organization comprising at least seventy-five (75) percent Association members with a common interest or occupation. Such organization shall meet at least the minimum standards for nongovernance affiliation.

### **8-6. NEA-Retired.**



The NEA-Retired shall be an organization comprised solely of the Retired members of the Association. The president of NEA-Retired shall be chosen by the retired delegates to the NEA Representative Assembly.

### **8-7. Standards for Local Affiliates.**

The Association shall not affiliate a local association, including a dual-national local affiliate, unless it meets the following minimum standards:

a. Each affiliate shall apply the one-person—one-vote principle for representation on its governing bodies except that (i) the affiliate shall take such steps as are legally permissible to achieve ethnic-minority representation at least proportionate to its ethnic-minority membership and (ii) the affiliate may adopt a provision in its governing documents that would permit that local to allocate a minimum of one (1) representative or delegate to members at each work site of a school district or higher education institution within the jurisdiction of the affiliate.

Where an all-inclusive affiliate exists, it shall provide proportionate representation between its nonsupervisor members and its supervisor members;

b. The affiliate shall conduct all elections with open nominations and a secret ballot.

c. The affiliate shall require membership in the Association and in its state affiliate where eligible.

If an affiliate enrolls education support professionals in any membership category and as a matter of policy seeks to recruit and represent such members, the affiliate (i) shall grant them full rights of participation and (ii) shall require them to be members of the Association and its state affiliate where eligible;

d. The affiliate is comprised predominantly of persons who are eligible for active membership (or the equivalently designated membership category) in the state affiliate, unless the state affiliate by action of its board of directors (or equivalent governing body) approves such affiliation. This requirement shall not apply to any local association that was an affiliate of the Association as of the effective date of this amendment.

e. The affiliate shall be reviewed by the Association to determine compliance with minimum standards for affiliation at least once every five (5) years;

f. The affiliate shall have the same membership year as that of the Association;

g. The affiliate shall guarantee that no member of said affiliate may be censured, suspended, or expelled without a due process hearing, which shall include an appropriate appellate procedure; and

h. The affiliate shall deny membership to an individual while said individual is denied membership in the Association pursuant to Bylaw 2-3.d.

### **8-9. Local Affiliation by State.**

A local association meeting the requirements for affiliation stipulated in the governing documents of the Association and of the state affiliate shall be granted affiliate status by the appropriate state affiliate.

### **8-11. Standards for State Affiliates.**

The Association shall not affiliate a state association, including a dual-national state affiliate, unless it meets the following minimum standards:

a. Each affiliate shall apply the one-person–one-vote principle for representation on its governing bodies except that the affiliate shall take such steps as are legally permissible to achieve ethnic-minority representation at least proportionate to its ethnic-minority membership.

A state delegate body may adopt a provision to the governing documents of the state affiliate that would permit that state to allocate a minimum of one delegate credential to each local affiliate.

Where an all-inclusive affiliate exists, it shall provide proportionate representation between its nonsupervisor members and its supervisor members.

The state affiliate shall designate at least one of its NEA state directors to serve on the board of directors (or equivalent governing body) of the state affiliate with full rights of participation;

b. The affiliate shall conduct elections with open nominations and a secret ballot. In considering an application for affiliation of an organization in New York as a dual-national state affiliate, the Executive Committee may waive the requirement for a secret ballot election of the affiliate's officers, provided that (i) in the membership year immediately preceding the effective date of merger, the active membership of the affiliate of the American Federation of Teachers was at least five (5) times the active membership of the affiliate of the Association, and (ii) the dual-national state affiliate has a procedure which allows local affiliates that wish to vote for officers of the dual-national state affiliate by a secret ballot to do so.

c. Except as otherwise provided below, the affiliate shall require membership in the Association and in its local affiliate where eligible.

If an affiliate enrolls education support professionals in any membership category and as a matter of policy seeks to recruit and represent such members, the affiliate (i) shall grant them full rights of participation and (ii) shall require them to be members of the Association and its local affiliate where eligible.

The affiliate shall require Aspiring Educator membership in the Association for its aspiring educator members.

The affiliate shall require Retired membership in the Association for its retired members provided the affiliate has a membership category for retired members and provided the affiliate grants such members at least the right to serve as delegate to its delegate assembly or equivalent body and to be counted toward the representation entitlement for such body. Upon the vote of the board of directors or the equivalent governing body of the affiliate, this requirement shall not apply to persons who were retired members of the affiliate during the 1984-85 membership year if such members (i) had the aforesaid governance rights during the 1984-85 membership year or (ii) are granted the aforesaid governance rights subsequent to the 1984-85 membership year.

The affiliate shall require Substitute membership in the Association for its substitute members.

The affiliate shall require Active membership in the Association for its Active (or equivalently designated) members where eligible, provided that persons who, during the

2009-2010 membership year, were Active (or equivalently designated) members of the affiliate but were not eligible for Active membership in the Association shall be exempt from this requirement (“grandparented affiliate members”). The exemption for grandparented affiliate members may be waived by the board of directors (or equivalent governing body) of the affiliate. A waiver of the exemption for grandparented affiliate members, by action of the board of directors (or equivalent governing body) of the affiliate, shall be irrevocable.

d. The affiliate shall have an end-of-year audit conducted by an independent certified public accounting firm in accordance with generally accepted auditing standards at least every other year, and an end-of-year audit review for any year in which an audit is not conducted. This audit or audit review shall be presented to the board of directors (or equivalent governing body) of the state affiliate, and a copy of the complete audit or audit review report (including the auditor’s opinion letter and the financial statements and footnotes thereto), together with any management letter received from the auditor shall be provided to the Association within twenty (20) days after it is presented to the board of directors of the state affiliate.

The affiliate shall submit a copy of its annual budget to the Association within twenty (20) days after it is adopted by the appropriate governing body of the state affiliate.

e. The affiliate shall have the same membership year as that of the Association;

f. The affiliate shall guarantee that no member of said affiliate may be censured, suspended, or expelled, and that none of its local affiliates may be censured, suspended, or disaffiliated, without a due process hearing, which shall include an appropriate appellate procedure;

g. The affiliate shall deny membership to an individual while said individual is denied membership in the Association pursuant to Bylaw 2-3.d; and

h. The affiliate shall be reviewed by the Association to determine compliance with minimum standards for affiliation at least once every five (5) years.

## **8-12. Trusteeships over Affiliates.**

a. The Association may establish a trusteeship over an affiliate for the purpose of (i) correcting corruption or financial malpractice; (ii) restoring democratic procedures; or (iii) correcting a serious dereliction of duties in their performance of union responsibilities. No local trusteeship shall be established by the Association if the state affiliate with which the local association is affiliated has the authority under its constitution and bylaws to establish such a trusteeship unless the state affiliate by majority vote of its Board of Directors (or equivalent body) requests that the Association establish the local trusteeship.

b. If, after providing the affiliate an opportunity to address and provide information to the Executive Committee, the Executive Committee determines, by two-thirds (2/3) vote, that there is adequate cause under section (a) of this Bylaw to establish a trusteeship, it shall recommend to the Board of Directors that a trusteeship be established. As soon as possible after said vote, the president shall send to the Board of Directors a copy of the recommendation of the Executive Committee, and shall include with said recommendation a written statement setting forth the basis for the Executive Committee’s

determination that there is adequate cause for the establishment of a trusteeship. The written statement shall be sufficiently specific so as to enable the state or local association to prepare a defense.

Any action taken by the state or local association to disaffiliate from the National Education Association after the Executive Committee has made an adequate-cause determination pursuant to section (b) of this Bylaw, or has established an immediate trusteeship pursuant to section (g) of this Bylaw, shall be of no effect if the NEA Board of Directors approves by two-thirds (2/3) the trusteeship recommendation of the Executive Committee.

c. A recommendation by the Executive Committee to establish a trusteeship shall be acted upon by the Board of Directors at its next regularly scheduled meeting or at a special meeting called for that purpose, occurring at least forty (40) days after the Board of Directors has received said recommendation.

At least thirty (30) days prior to the meeting of the Board of Directors at which the recommendation of the Executive Committee is to be acted upon, the President shall send to the association subject to the trusteeship, as well as its state affiliate where applicable, a notice advising it of the recommendation of the Executive Committee and setting forth the date, time, and place of the meeting of the Board of Directors at which said recommendation shall be acted upon. The President shall include with said notice a copy of the written statement that was submitted to the Board of Directors pursuant to section (b) of this Bylaw and a copy of the rules and procedures that shall be followed by the Board of Directors in acting upon the Executive Committee's recommendation.

A hearing shall be held before the Board of Directors, pursuant to rules and procedures adopted by the Board of Directors for such purpose to determine whether to establish a trusteeship. The Board of Directors may delegate to a committee consisting of not less than eleven (11) Board of Director members, none of whom may be members of the Executive Committee, the responsibility to receive evidence and hear arguments in the first instance, provided that the final decision regarding the establishment of a trusteeship shall be made by the full Board of Directors, and all interested parties shall have an adequate opportunity to present their views on the matter to the full Board of Directors before the final decision is made.

On the basis of the evidence and arguments presented at the hearing, the Board of Directors shall vote on the question of whether a trusteeship should be established. If more than one-third (1/3) of the members of the Board of Directors who vote on the question vote "no," the recommendation of the Executive Committee shall have been rejected. If two-thirds (2/3) or more of the members of the Board of Directors who vote on the question vote "yes," the recommendation of the Executive Committee shall have been accepted, in which event a trusteeship shall be established over the association as of the announcement of the vote. As soon as possible after said vote, the Executive Committee shall appoint a trustee.

d. Subject to the control and direction of the Executive Committee, a trustee shall have the power to:

- (1) conduct the affairs of the trustee association, including supervisory control over its officers, employees and other representatives;
- (2) take possession of the books, records, funds, and other assets of the trustee association, to be held in trust for and used only in the proper conduct of its affairs;

- (3) remove officers and staff of the trustee association, and replace them if deemed appropriate for the duration of the trusteeship; and
- (4) take such other actions as in a trustee's judgment are necessary for the preservation of the rights and interests of the National Education Association and the members of the trustee association.

The Executive Committee shall have the right, with or without cause, to replace a trustee at any time.

Reasonable expenses incurred by a trustee in the performance of the trustee's functions shall be paid out of the funds of the trustee association, if available; otherwise, such expenses shall be paid by the National Education Association.

e. The Executive Committee shall terminate a trusteeship as soon as the cause for its establishment has been remedied. If the Executive Committee rejects a request from the Board of Directors (or equivalent governing body) of a trustee association to terminate a trusteeship, the trustee association shall have the right to appeal to the NEA Board of Directors, provided that no such appeal may be taken within three (3) months after the decision of the NEA Board of Directors on a prior appeal.

Prior to the termination of a trusteeship, a trustee shall conduct an election, in accordance with the applicable provisions of the governing documents and policies of the trustee association and the National Education Association to fill, as of the date of such termination, officer positions vacated by removal or departure of former incumbents. As of the date of termination of a trusteeship, a trustee shall return control of the books, records, funds, and other assets of the trustee association to its appropriate officers. A trustee shall make a final accounting of a trusteeship, and submit copies to the Board of Directors and the trustee association.

f. No financial obligation or liability of the trustee association which may exist at the time a trusteeship is established, or which may be incurred during a trusteeship, shall be assumed by or become an obligation of the National Education Association.

g. Subject to the provisions of section (a) of this Bylaw, in case of emergency, where the best interests of the state or local association and the National Education Association require, the Executive Committee may, by unanimous vote of all members of the Executive Committee (excluding any member who is or was a member of the state association in question), establish an immediate trusteeship over the state or local association without action by the Board of Directors. In such a case, the matter shall be submitted to the Board of Directors, which may affirm or reverse the action of the Executive Committee pursuant to the procedure set forth in section (c) of this Bylaw, provided that if the Board of Directors does not take action within sixty (60) days following the establishment of a trusteeship by the Executive Committee, said trusteeship shall automatically terminate.

h. If the Board of Directors establishes a trusteeship or refuses to terminate an established trusteeship, the trustee association shall have the right to appeal to the Representative Assembly, provided that written notice of such appeal is filed with the President by at least ten (10) percent of the active members in good standing of the trustee association or by a three-fourths (3/4) vote of the highest governing body of the trustee association within forty-five (45) days after the decision of the Board of Directors is made known to the trustee association. The

Representative Assembly shall rule on the appeal at its first meeting occurring after the president receives the written notice of appeal.

Pending an appeal to the Representative Assembly, the decision of the Board of Directors shall remain in full force and effect.

i. The Board of Directors shall adopt such rules and procedures as may be necessary to implement this Bylaw.

j. This Bylaw shall not apply to affiliates that, as of January 1, 2019, had provisions in their bylaws or equivalent governing documents that prohibit affiliation with an entity that could impose a trusteeship on the affiliate.

### **8-13. Standards for Nongovernance Affiliates.**

The Association shall not affiliate a nongovernance affiliate unless it meets the following minimum standards:

- a. The affiliate shall have common interests with the Association;
- b. The affiliate shall be a self-governing organization with governance documents compatible with those of the Association;
- c. At least seventy-five (75) percent of the members of the affiliate shall be members of the Association;
- d. The affiliate shall comprise at least one hundred (100) members;
- e. The affiliate may assess its own dues;
- f. The affiliate shall not duplicate Association services; and
- g. The affiliate shall have the same membership year as that of the Association.

### **8-14. Standards for NEA-Retired.**

The NEA-Retired shall operate in accordance with its bylaws, which shall be compatible with the Constitution and Bylaws of the Association.

The NEA-Retired shall conduct all elections with open nominations and a secret ballot.

### **8-15. Procedure for Affiliation.**

a. A group or unit seeking governance affiliation shall file a written application including copies of its governance documents with the Executive Committee.

b. A group or unit seeking nongovernance affiliation shall file a written application including copies of its governance documents with the Executive Committee. The application shall be by petition signed by two hundred fifty (250) members of the Association from among at least twenty-five (25) state affiliates.

c. After action by the Executive Committee, the group or unit seeking affiliation shall ratify the granting of affiliate status.

### **8-17. Charter for Affiliation.**

a. The Association shall charter no more than one (1) local affiliate within the same jurisdictional boundaries, with the exception that local affiliates not competing for

the same category of membership may be chartered. Where two (2) or more local affiliates of the same category of membership qualify for affiliation in the same jurisdictional boundaries, the Association shall charter the prospective local affiliate with the greater number of active members.

b. The Association shall charter no more than one (1) state affiliate within the same jurisdictional boundaries.

The Association and/or any successor organization shall not revoke the charter of, or take any other action against, an existing state affiliate for failure to merge or otherwise form a unified single state organization with an organization affiliated with the American Federation of Teachers (AFT) and/or the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO).

### **8-19. Special Interest Groups.**

a. Any Special Interest Group may be recognized by a majority vote of the Board of Directors.

b. The terms and conditions of the relationship between the Association and the Special Interest Group shall be negotiated by the Board of Directors and the group seeking recognition.

### **8-20. Dual Affiliates.**

Except as otherwise provided in Bylaw 8-17 of these Bylaws, the Association shall not create dual affiliates within the legal boundaries of any local, state, or other jurisdictional boundaries. Except for the association representing Association members in the District of Columbia, there shall be no affiliation of any association representing Association members only in a city as a separate state affiliate.

### **8-21. Disaffiliation.**

a. A state or local affiliate may only terminate its affiliation with the National Education Association, and any other NEA affiliate, if two-thirds (2/3) of the members voting in a mail ballot election of the full membership conducted by the American Arbitration Association, or a comparable independent third-party election services provider approved in advance by NEA, or in an in-person election at each work site if required by the relevant state affiliate's governing documents or policy and agreed to by NEA, vote in favor of disaffiliation. No such disaffiliation election shall be conducted or effective without first (i) providing at least 60 days' written notice to the membership, to NEA, and to any other NEA-affiliated entity that would be affected by the proposed disaffiliation, of the mail ballot election and the basis for the proposed disaffiliation; (ii) providing at least 30 days' written notice to the membership, and to NEA and any other NEA affiliated association, of a general membership meeting to be scheduled at an accessible place and time immediately before disaffiliation ballots are mailed out; (iii) holding that membership meeting in a manner that allows ample opportunity for discussion and debate over the affiliation issue; and (iv) allowing at least one representative of NEA and one representative of any other NEA-affiliated entity that

would be affected by the proposed disaffiliation to address the membership at that membership meeting.

b. If a local affiliate terminates its affiliation with the National Education Association, the name of the local affiliate, if it includes NEA or the phrase “education association” or “association of educators”, as well as any other assets of the affiliate provided or funded by the state affiliate or National Education Association, shall revert to and become the property of the state affiliate. If a state affiliate terminates its affiliation with the National Education Association, the name of the affiliate, if it includes NEA or the phrase “education association” or “association of educators,” as well as any other assets of the affiliate provided or funded by the National Education Association, shall revert to and become property of NEA.

## **10. Executive Director and Staff**

### **10-1. Executive Director.**

The Executive Committee shall employ an executive director who shall be the Association staff member with primary responsibility for implementing the policies of the Association. The executive director shall be responsible to the Executive Committee.

### **10-3. Executive Director: Functions.**

The executive director shall:

- a. Employ, direct, and supervise all Association staff. The employment of managerial personnel beginning at the level of unit administrator shall be with the approval of the Executive Committee;
- b. Serve as a consultant to the governing bodies of the Association;
- c. Advise the officers and governing bodies on all policy matters through appropriate reports and recommendations;
- d. Represent the Association as spokesperson on matters of established policy at the discretion of the president;
- e. Meet periodically with the president, the vice president, and appropriate staff to confer on Association policies and procedures;
- f. Advise and assist the president, the secretary-treasurer, and the Committee on Program and Budget in preparing the budget, and administer the budgets authorized by the governing bodies of the Association;
- g. Co-sign with the secretary-treasurer all authorizations for disbursements from the Capital Improvement Fund;
- h. Co-sign and/or authorize a designee to co-sign with the secretary-treasurer or the designee of the secretary-treasurer all authorizations for disbursements from the General Fund;
- i. Notify state and local affiliates and other qualified organizations of the number of Representative Assembly delegates to which they are entitled;
- j. Furnish each member appropriate evidence of membership; and
- k. Perform such other duties as may be assigned by the Executive Committee.



## **10-5. Staff: Principles.**

The following principles shall govern employment and functions of staff as agents of the Association:

- a. Full-time local, state, and national staff shall be eligible only for Staff membership and shall not hold elective or appointive positions at any level; part-time staff shall not be eligible to serve on the NEA Board of Directors or Executive Committee;
- b. The Association shall be an equal opportunity employer;
- c. The Association shall, as vacancies arise, employ at all levels of service at least the same ratio of any ethnic minority as is that ethnic minority to the total population of the United States; and
- d. The Association shall recognize the rights of its employees to organize for the purpose of collective bargaining.

## **11. General Finance**

### **11-1. Fiscal Year.**

The fiscal year of the Association shall be September 1 through August 31.

### **11-3. General Fund.**

- a. The General Fund of the Association shall comprise all income received in the form of dues, interest, dividends, fees, earnings from advertising, sales of Association publications, payments for services, and funds received by gift, bequest, devise, or transfer to the Association which are not specifically designated for deposit in the Capital Improvement Fund.
- b. All operating accounts and debt services shall be paid out of the General Fund.
- c. If at the end of the fiscal year the audited General Fund balance is less than ten (10) percent of that year's budget, subsequent budgets must include an appropriation equal to one (1) percent of the current year's budget or the amount necessary to bring the General Fund up to ten (10) percent of the prior year's budget, whichever is less. The Representative Assembly may approve a budget without the required appropriation only by a two-thirds (2/3) vote. The Board of Directors may make appropriations which reduce the General Fund balance to less than ten (10) percent of the prior year's budget only by a two-thirds (2/3) vote of the Board and only when the Board has received a thirty (30) day notice of the proposed appropriation.
- d. Disbursements from the General Fund shall be by check or by similar written orders to depositories, co-signed by the secretary-treasurer and by the executive director or by their designees.

### **11-5. Capital Improvement Fund.**

a. The Capital Improvement Fund shall comprise the properties and permanent investments of the Association, and other funds or properties received by gift, devise, bequest, or transfer for deposit in this fund.

b. Disbursement from the Capital Improvement Fund to acquire new properties or to provide for major long-term improvements in existing properties shall be authorized by a two-thirds (2/3) vote of the Board of Directors. Expenditures from this fund for any other purpose shall be authorized by a two-thirds (2/3) vote of the Representative Assembly.

c. Investment policies for the General Fund and for the Capital Improvement Fund shall be established by the Board of Directors.

d. Disbursements from the Capital Improvement Fund shall be by check or by similar written orders to depositories, cosigned by the secretary-treasurer and by the executive director or by their designees.

### **11-7. Committee on Program and Budget.**

The Committee on Program and Budget shall comprise eight (8) members whose function shall be to prepare with the president, the secretary-treasurer, and the executive director the biennial budget. The vice president and the secretary-treasurer shall be members during their terms of office. The Board of Directors shall elect at its first meeting following September 1 five (5) of its members for staggered two (2) year terms. The state affiliate presidents shall elect, following September 1, one (1) member to represent them for a two (2) year term. Members from ethnic minorities shall comprise at least twenty (20) percent of the committee. The Board shall elect additional members as appropriate to assure such ethnic-minority representation. A member elected by the Board of Directors shall serve only while a member of the Board. A member elected by the state affiliate presidents shall serve only while a state president. The secretary-treasurer shall serve as chairperson.

### **11-9. Budget.**

a. The budget of the Association shall be designed to achieve the goals and objectives of the Association.

b. The president, with the secretary-treasurer, the executive director, and the Committee on Program and Budget, shall prepare the proposed budget for presentation to the Executive Committee for review prior to its transmittal to the Board of Directors. In even-numbered years the budget shall be recommended to the Board of Directors at least forty-five (45) days prior to the Annual Meeting. After reviewing and tentatively approving the budget, the Board shall direct its printing. The budget shall then be transmitted not later than thirty (30) days prior to the Annual Meeting to the presidents of state and local affiliates and to others as determined by the Board of Directors. The Committee on Program and Budget shall hold at least one (1) open hearing on the

proposed budget following the transmission of the budget. The delegates may give input and make recommendations to the committee for changes in the proposed budget. The Committee on Program and Budget shall meet following the hearings to consider any change which it may wish to make prior to final action by the Board of Directors. Following such open hearings, the Board shall meet to approve the budget for transmittal to the Representative Assembly.

c. The budget shall include an appropriation for contingencies of no less than one million dollars (\$1 million) and no more than one (1) percent of the budget.

d. Financial participation by the Association in activities of Special Interest Groups shall be limited to funds for projects or for short-term, special program contracts authorized in the budget.

e. In the second year of a biennial budget, adjustments as deemed necessary shall be recommended by the Board of Directors at a meeting held at least forty-five (45) days prior to the Annual Meeting and reported to the Representative Assembly. The Representative Assembly shall receive and act on the modifications recommended by the Board of Directors.

## **11-11. Financial Reports.**

The secretary-treasurer shall prepare an annual report of the General Fund and the Capital Improvement Fund, including income and expenditures for the fiscal year.

The audit report received by the Executive Committee shall be transmitted to the Board of Directors and printed in the annual financial reports to the Representative Assembly. A summary of the audit shall be printed in a publication distributed to all members.

## **12. Definitions**

### **12-1. Definitions of Terms.**

As used in the Charter, the Constitution, these Bylaws, and the Standing Rules, the Association adopts and adheres to the following definitions of terms:

a. State affiliate: (i) State affiliate shall mean the association within each state or commonwealth and associations representing the District of Columbia, Puerto Rico, the Federal Education Association, and such other comparable associations which meet at least the minimum standards of affiliation. (ii) Dual-national state affiliate shall mean a state affiliate of the Association that is also a state affiliate of the American Federation of Teachers.

b. Dual-national local affiliate shall mean a local affiliate of the Association that also is a local affiliate of the American Federation of Teachers.

c. State director: State director shall mean a member of the NEA Board of Directors elected to represent Active members in a state, the District of Columbia, Puerto Rico, or the jurisdiction of the Federal Education Association.

d. Classroom teacher: Classroom teacher shall mean any person who is certified, where required, and a major part of whose time is spent in direct contact with students or

who performs allied work which results in placement of the person on a local salary schedule for teachers.

e. Education position: Education position shall mean the following two categories: Category 1 shall include NEA Active members who are not supervisors; and category 2 shall include NEA Active members who are supervisors, NEA retired Life members, NEA staff Life members, and NEA Active members for life who are past presidents of the Association and who do not meet the requirements for membership set forth in Bylaw 2-1.b.

f. Supervisor and administrator: Supervisor and administrator shall mean any person who has continuing authority to hire, evaluate, transfer, discipline, dismiss, or otherwise direct employees or to effectively recommend any of the aforesaid actions. A person shall not be deemed a supervisor or administrator: (i) if the exercise of such authority is routine or clerical in nature and does not call for the exercise of independent judgment; (ii) solely because of the authority exercised in regard to a secretary, aide, or other employee specifically assigned to assist the individual; or (iii) solely because of participation in a peer review program or other program which involves said person on an occasional basis in the evaluation of employees.

g. Ex officio: Ex officio shall mean by virtue of office. This designation shall carry with it the right to vote except as otherwise provided.

h. Ethnic minority: Ethnic minority shall mean those persons designated as ethnic minority by statistics published by the United States Bureau of the Census. This designation shall specifically include American Indian/Alaska Native, Asian, Native Hawaiian or other Pacific Islander, Black, and Hispanic.

### **13. Parliamentary Authority**

#### **13-1. Robert's Rules of Order Newly Revised.**

The most recent edition of *Robert's Rules of Order Newly Revised* shall be the authority in all matters of procedure at the NEA Representative Assembly and in the election of NEA directors and delegates to the NEA Representative Assembly, except as otherwise specified in the Charter, the Constitution, these Bylaws, or the Standing Rules.

#### **13-2. Parliamentary Procedures for Affiliates.**

An affiliate shall officially adopt any published parliamentary authority and may adopt special rules which supplement or substitute for that parliamentary authority provided that such procedures do not conflict with the Charter, the Constitution, these Bylaws, or the Standing Rules as these documents may be interpreted by the Representative Assembly, Board of Directors, or Executive Committee.

## Parliamentary Procedure for Meetings

**Robert's Rules of Order** is the standard for facilitating discussions and group decision-making. Copies of the rules are available at most bookstores. Although they may seem long and involved, having an agreed-upon set of rules makes meetings run easier. **Robert's Rules** will help your group have better meetings, not make them more difficult. Your group is free to modify them or find another suitable process that encourages fairness and participation, unless your bylaws state otherwise.

Here are the basic elements of **Robert's Rules**, used by most organizations:

1. **Motion:** To introduce a new piece of business or propose a decision or action, a motion must be made by a group member ("I move that.....") A second motion must then also be made (raise your hand and say, "I second it.") After limited discussion the group then votes on the motion. A majority vote is required for the motion to pass (or quorum as specified in your bylaws.)
2. **Postpone Indefinitely:** This tactic is used to kill a motion. When passed, the motion cannot be reintroduced at that meeting. It may be brought up again at a later date. This is made as a motion ("I move to postpone indefinitely..."). A second is required. A majority vote is required to postpone the motion under consideration.
3. **Amend:** This is the process used to change a motion under consideration. Perhaps you like the idea proposed but not exactly as offered. Raise your hand and make the following motion: "I move to amend the motion on the floor." This also requires a second. After the motion to amend is seconded, a majority vote is needed to decide whether the amendment is accepted. Then a vote is taken on the amended motion. In some organizations, a "friendly amendment" is made. If the person who made the original motion agrees with the suggested changes, the amended motion may be voted on without a separate vote to approve the amendment.
4. **Commit:** This is used to place a motion in committee. It requires a second. A majority vote must rule to carry it. At the next meeting the committee is required to prepare a report on the motion committed. If an appropriate committee exists, the motion goes to that committee. If not, a new committee is established.
5. **Question:** To end a debate immediately, the question is called (say "I call the question") and needs a second. A vote is held immediately (no further discussion is allowed). A two-thirds vote is required for passage. If it is passed, the motion on the floor is voted on immediately.
6. **Table:** To table a discussion is to lay aside the business at hand in such a manner that it will be considered later in the meeting or at another time ("I make a motion to table this discussion until the next meeting. In the meantime, we will get more information so we can better discuss the issue.") A second is needed and a majority vote required to table the item being discussed.
7. **Adjourn:** A motion is made to end the meeting. A second motion is required. A majority vote is then required for the meeting to be adjourned (ended).

**Note:** If more than one motion is proposed, the most recent takes precedence over the ones preceding it. For example if #6, a motion to table the discussion, is proposed, it must be voted on before #3, a motion to amend, can be decided.

In a smaller meeting, like a committee or board meeting, often only four motions are used:

- To introduce (motion.)
- To change a motion (amend.)
- To adopt (accept a report without discussion.)
- To adjourn (end the meeting.)

Remember, these processes are designed to ensure that everyone has a chance to participate and to share ideas in an orderly manner. Parliamentary procedure should not be used to prevent discussion of important issues.

Board and committee chairpersons and other leaders may want to get some training in meeting facilitation and in using parliamentary procedure. Additional information on meeting processes, dealing with difficult people, and using ***Robert's Rules*** is available from district office staff and community resources such as the League of Women Voters, United Way and other technical assistance providers. Parliamentary Procedure at a Glance, by O. Garfield Jones, is an excellent and useful guide for neighborhood association chairs.

## **Tips in Parliamentary Procedure**

The following summary will help you determine when to use the actions described in ***Robert's Rules***.

- **A main motion must be moved, seconded, and stated by the chair before it can be discussed.**
- **If you want to move, second, or speak to a motion,** *stand and address the chair.*
- **If you approve the motion as is,** *vote for it.*
- **If you disapprove the motion,** *vote against it.*
- **If you approve the idea of the motion but want to change it,** *amend it or submit a substitute for it.*
- **If you want advice or information to help you make your decision,** *move to refer the motion to an appropriate quorum or committee with instructions to report back.*
- **If you feel they can handle it better than the assembly,** *move to refer the motion to a quorum or committee with power to act.*
- **If you feel that there the pending question(s) should be delayed so more urgent business can be considered,** *move to lay the motion on the table.*
- **If you want time to think the motion over,** *move that consideration be deferred to a certain time.*
- **If you think that further discussion is unnecessary,** *move the previous question.*
- **If you think that the assembly should give further consideration to a motion referred to a quorum or committee,** *move the motion be recalled.*
- **If you think that the assembly should give further consideration to a matter already voted upon,** *move that it be reconsidered.*
- **If you do not agree with a decision rendered by the chair,** *appeal the decision to the assembly.*
- **If you think that a matter introduced is not germane to the matter at hand,** *a point of order may be raised.*
- **If you think that too much time is being consumed by speakers,** *you can move a time limit on such speeches.*
- **If a motion has several parts, and you wish to vote differently on these parts,** *move to divide the motion.*

## PARLIAMENTARY PROCEDURE AT A GLANCE

TO DO THIS	YOU SAY THIS	MAY YOU INTERRUPT SPEAKER	MUST YOU BE SECONDED	IS MOTION DEBATABLE	WHAT VOTE REQUIRED
Adjourn meeting*	I move that we adjourn	No	Yes	No	Majority
Recess meeting	I move that we recess until...	No	Yes	No	Majority
Complain about noise, room temperature, etc.*	Point of privilege	Yes	No	No	No vote
Suspend further consideration of something*	I move we table it	No	Yes	No	Majority
End debate	I move the previous question	No	Yes	No	2/3 vote
Postpone consideration of something	I move we postpone this matter until...	No	Yes	Yes	Majority
Have something studied further	I move we refer this matter to committee	No	Yes	Yes	Majority
Amend a motion	I move this motion be amended by...	No	Yes	Yes	Majority
Introduce business (a primary motion)	I move that...	No	Yes	Yes	Majority
Object to procedure or personal affront*	Point of order	Yes	No	No	No vote, Chair decides
Request information	Point of information	Yes	No	No	No vote
Ask for actual count to verify voice vote	I call for a division of the house	No	No	No	No vote
Object consideration of undiplomatic vote*	I object to consideration of this question	Yes	No	No	2/3 vote
Take up a matter previously tabled*	I move to take from the table...	No	Yes	No	Majority
Reconsider something already disposed of*	I move we reconsider our action relative to...	Yes	Yes	Yes	Majority
Consider something already out of its schedule*	I move we suspend the rules and consider	No	Yes	No	2/3 vote
Vote on a ruling by the Chair	I appeal the Chair's decision	Yes	Yes	Yes	Majority

\*Not amendable

## PARLIAMENTARY PROCEDURE AT A GLANCE

		Debatable	Amendable	Can Be Reconsidered	Requires 2/3 Vote
Privileged Motions	Fix Time at Which to Adjourn	No	Yes	No	No
	Adjourn	No	No	Yes	No
	Question of Privilege	No	Yes	Yes	No
	Call for Order of Day	No	No	Yes	No
Incidental Motions	Appeal	Yes	No	Yes	No
	Objection to Consideration of a Question	No	No	Yes	Yes
	Point of Information	No	No	No	No
	Point of Order	No	No	No	No
	Read Papers	No	No	Yes	No
	Suspend the Rules	No	No	No	Yes
	Withdraw a Motion	No	No	Yes	No
Subsidiary Motions	Lay on the Table	No	No	Yes	No
	The Previous Question (close debate)	No	No	Yes	Yes
	Limit or Extend Debate	No	Yes	Yes	Yes
	Postpone to a Definite Time	Yes	Yes	Yes	No
	Refer to Committee	Yes	Yes	Yes	No
	Amend the Amendment	Yes	No	No	No
	Amendment	Yes	Yes	Yes	No
	Postpone Indefinitely	Yes	No	Yes	No
Main Motion	Main or Procedural Motion	Yes	Yes	Yes	No

This table presents the motions in order of precedence. Each motion takes precedence over (i.e. can be considered ahead of) the motions listed below it. No motion can supersede (i.e. be considered before) any of the motions listed above it.

**PLEASE NOTE:** many organizations use only the Main Motion and Subsidiary Motions, handling other matters on an informal basis.



## **IN THE MEETING**

### ***TO INTRODUCE A MOTION:***

Stand when no one else has the floor.

Address the Chair by the proper title.

Wait until the chair recognizes you.

- Now that you have the floor and can proceed with your motion say "I move that...", state your motion clearly and sit down.
- Another member may second your motion. A second merely implies that the seconder agrees that the motion should come before the assembly and not that he/she is in favor of the motion.
- If there is no second, the Chair says, "The motion is not before you at this time." The motion is not lost, as there has been no vote taken.
- If there is a second, the Chair states the question by saying "It has been moved and seconded that ... (state the motion). . . , is there any discussion?"

### ***DEBATE OR DISCUSSING THE MOTION:***

- The member who made the motion is entitled to speak first.
- Every member has the right to speak in debate.
- The Chair should alternate between those "for" the motion and those "against" the motion.
- The discussion should be related to the pending motion.
- Avoid using a person's name in debate.
- All questions should be directed to the Chair.
- Unless there is a special rule providing otherwise, a member is limited to speak once to a motion.
- Asking a question or a brief suggestion is not counted in debate.
- A person may speak a second time in debate with the assembly's permission.

### ***VOTING ON A MOTION:***

- Before a vote is taken, the Chair puts the question by saying "Those in favor of the motion that ... (repeat the motion)... say "Aye." Those opposed say "No." Wait, then say "The motion is carried," or "The motion is lost."
- Some motions require a 2/3 vote. A 2/3 vote is obtained by standing
- If a member is in doubt about the vote, he may call out "division." A division is a demand for a standing vote.
- A majority vote is more than half of the votes cast by persons legally entitled to vote.
- A 2/3 vote means at least 2/3 of the votes cast by persons legally entitled to vote.
- A tie vote is a lost vote, since it is not a majority.

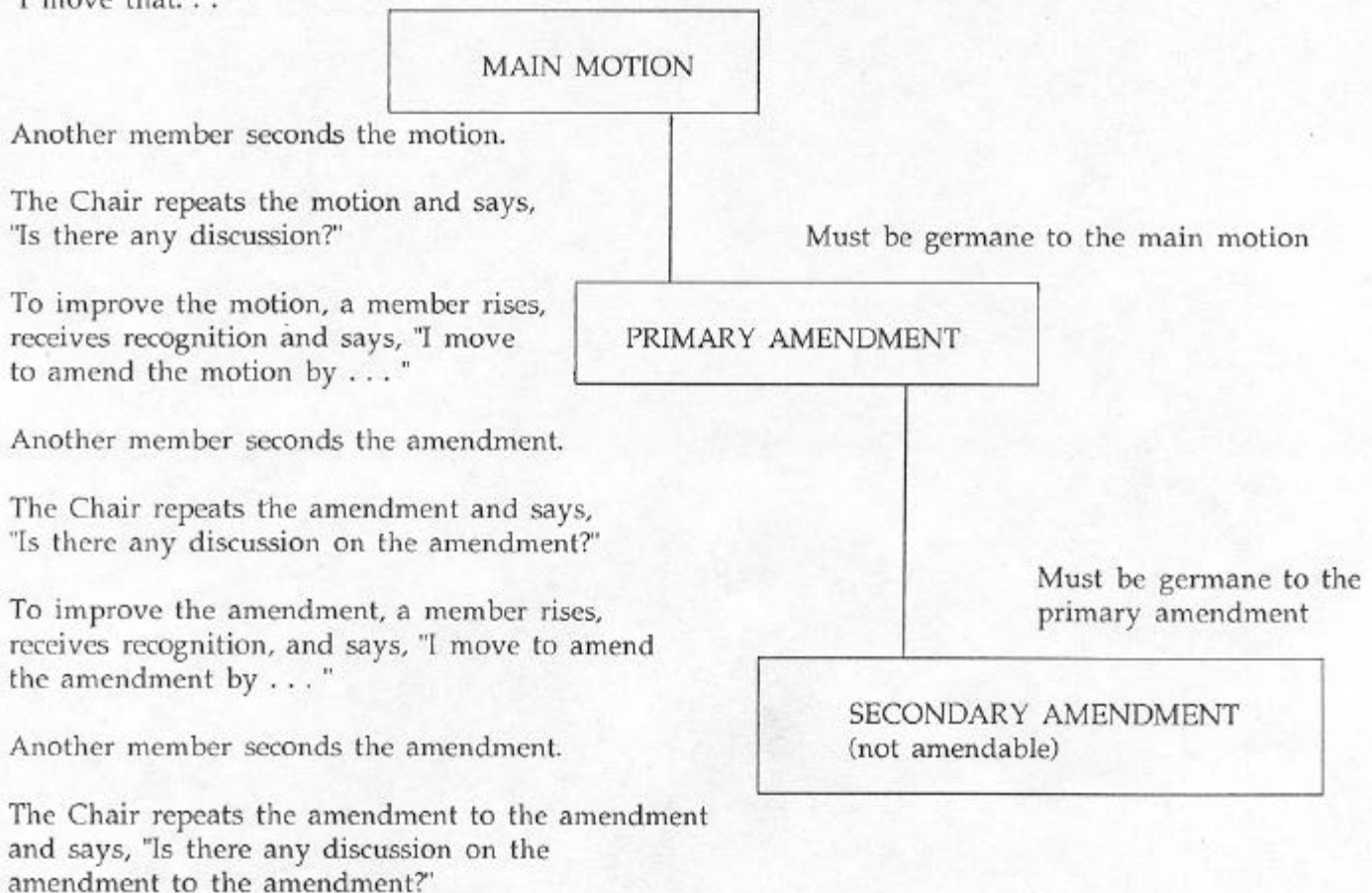
# AMENDMENTS ILLUSTRATED

Any main motion or resolution may be amended by:

1. Adding at the end
2. Striking out a word or words
3. Inserting a word or words
4. Striking out and inserting a word or words
5. Substitution

A member rises, addresses the chair, receives recognition, and states the motion:

"I move that . . ."



- When discussion ceases, the Chair says, "Those in favor of the amendment to the amendment say 'Aye.' Those opposed say 'No.'"
- If the vote was in the affirmative, the amendment is included in the primary amendment. The Chair then says, "Is there any discussion on the amended amendment?"
- If there is no discussion, a vote is taken on the amended amendment. If the vote in the affirmative, the amendment is included in the main motion. The chair then says, "Is there any discussion on the amended motion?"
- At this place, the motion can again be amended.
- If there is no further discussion, a vote is taken on the amended motion.
- Even though the amendments carried in the affirmative, the main motion as amended can be defeated.

# LANDRUM-GRIFFIN ELECTION CHECKLIST: ELECTION OF DELEGATES AND ALTERNATES

Complete this checklist and return it with your Election Certification Report. Each year questions arise as to guidelines to be followed in electing delegates and alternates to the NYSUT Representative Assembly. In an attempt to insure that elections are held in accordance with Landrum-Griffin, including the Landrum-Griffin requirement of one-person, one-vote, the following Landrum-Griffin Election Checklist is provided. **Again, please complete the Checklist; sign and date it; provide your email address, and return the completed Checklist with the completed Election Certification Report.**

**\*See, IMPORTANT NOTICE below regarding Non-Contested Delegate Elections.**

Yes	No		Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Elections are held at least every 3 years.	<input type="checkbox"/>	<input type="checkbox"/>	9. All candidates have equal opportunity to distribute literature and campaign for office.
<input type="checkbox"/>	<input type="checkbox"/>	2. The local's or retiree council's, as applicable, election procedures conform to NYSUT Constitution Article VIII §3 and NYSUT Bylaw C (2).	<input type="checkbox"/>	<input type="checkbox"/>	10. All bona fide candidates have the opportunity to inspect membership lists of all members at least once within 30 days before the election.
<input type="checkbox"/>	<input type="checkbox"/>	3. No funds received from dues, assessments, or similar levies have been used to promote the candidacy of any person.	<input type="checkbox"/>	<input type="checkbox"/>	11. Was there a non-contested election for delegates/alternate delegates? <b>*SEE, IMPORTANT NOTICE below.</b>
<input type="checkbox"/>	<input type="checkbox"/>	4. No employer funds or anything of value have been used to promote the candidacy of any person.	<input type="checkbox"/>	<input type="checkbox"/>	12. All delegates, alternates to the Representative Assembly are elected by secret ballot.
<input type="checkbox"/>	<input type="checkbox"/>	5. The rules for conducting nomination are fair, reasonable, and uniformly imposed.	<input type="checkbox"/>	<input type="checkbox"/>	13. Election notices are mailed to the last known home address of each member at least 15 days before the election (exclusive of the date of mailing).
<input type="checkbox"/>	<input type="checkbox"/>	6. Members receive reasonable opportunity for nomination, including receiving notice of the:	<input type="checkbox"/>	<input type="checkbox"/>	14. All members in good standing have an opportunity to vote for delegate(s) and alternate(s), in accordance with the Landrum-Griffin statute, the rules and regulations promulgated thereunder.
<input type="checkbox"/>	<input type="checkbox"/>	(a). offices to be filled: (Note: where an individual is being elected to serve in more than one office, both offices need to be identified at the time of nomination, and each office must appear on the ballot; <i>e.g.</i> , President <u>and</u> Delegate);	<input type="checkbox"/>	<input type="checkbox"/>	15. Members may support candidates of their choice without being subject to penalty, discipline, improper interference, or reprisal of any kind.
<input type="checkbox"/>	<input type="checkbox"/>	(b). the deadline for submitting nominations;	<input type="checkbox"/>	<input type="checkbox"/>	16. Candidates are given the opportunity to have observers at each polling place and at each place where the ballots are counted.
<input type="checkbox"/>	<input type="checkbox"/>	(c). the place for submitting nominations; and	<input type="checkbox"/>	<input type="checkbox"/>	17. Ballots and other election records are preserved for at least one year.
<input type="checkbox"/>	<input type="checkbox"/>	(d). Proper form for submitting nominations.	<input type="checkbox"/>	<input type="checkbox"/>	18. The results of the election were promptly published and posted.
<input type="checkbox"/>	<input type="checkbox"/>	7. Members had a reasonable time to nominate candidates.	<input type="checkbox"/>	<input type="checkbox"/>	19. The local or retiree council has notified the Secretary-Treasurer of NYSUT of the results of its election by completing the enclosed Election Certification Report form listing all elected delegates and alternates (regardless of whether or not they are planning to attend the upcoming NYSUT Representative Assembly).
<input type="checkbox"/>	<input type="checkbox"/>	8. All NYSUT members in good standing have an opportunity to be nominated to be a delegate or alternate.			

## **\*IMPORTANT NOTICE REGARDING NON-CONTESTED DELEGATE ELECTIONS**

**If: (1) a reasonable opportunity was provided for making nominations; (2) write-in candidates were not permitted at the polling location(s) under the local's election rules; and (3) the number of bona fide candidates who were nominated were less than or equal to the number of delegate/alternate delegate vacancies, the election may be dispensed with, and all of the candidates may be declared elected to the position of delegate or alternate, whichever the case may be. If there was a non-contested election at your local, you may skip Questions 12-16. However, you must complete Questions 17-19.**

**NEW YORK STATE UNITED TEACHERS**  
**A MODEL CONSTITUTION and BY-LAWS FOR LOCAL AFFILIATES**  
**Updated 12/14/18**

**I. NAME**

This organization shall be known as \_\_\_\_\_.  
(Association, Federation, Congress, Union, United Employees, etc.)

**II. PURPOSES**

The purpose of this organization shall be:

1. To advance the standards of its members' professions;
2. To secure the conditions necessary to provide the greatest rewards for its members in their work environment;
3. To promote the participation of its members in the operational decisions affecting their employment;
4. To promote the welfare and well-being of its members;
5. To promote mutual assistance and cooperation with other organizations with which it is associated;
6. To promote the aims and objectives of the New York State United Teachers and its national affiliates;
7. To expose and fight all forms of racism and discrimination;
8. To promote the unity and strength of its members.

**III. AFFILIATIONS**

This organization shall be affiliated with the New York State United Teachers (NYSUT) and its national affiliates.

#### IV. MEMBERSHIP

There shall be the following membership categories: Active and Special (Retiree).

1. Active: An Active member is any person currently employed or newly hired into a bargaining unit position, who has enrolled in membership and whose dues are current and paid in full. (*Locals may wish to use the term “member-in-good standing” “In-service,” “Current,” etc. instead of “Active” member. If so, be sure to adjust throughout.*)
2. Bargaining Unit Member on authorized Leave of Absence: *Insert Local determination here.*
3. *Optional Category for Locals*: Special (Retiree). Retiree membership in this organization shall be open to employees who have retired. (Locals have the autonomy to prohibit the retired member from holding office, voting on union matters, or voting on contract ratification; e.g. “Retirees holding special membership shall be prohibited from...)
4. *Optional Category for Locals*: Suspended: A Suspended member is one who completed all enrollment materials whose dues are not currently up to date and/or paid-in-full. A suspended member has not indicated an intention to withdraw membership.<sup>1</sup>
5. Non-Member: A Non-Member is a person employed or newly hired into a bargaining unit position and, to whom one of the following applies:
  - a. The person has not completed enrollment into the union
  - b. The person enrolled into the union and has taken action to withdraw membership from the union
  - c. A person who was in Suspended status whom, after a reasonable period of time has refused to bring dues arrears up-to-date (*if Suspended category is created*).
6. Membership shall be maintained through the payment of all required dues.
7. All Active members shall have equal rights and privileges to nominate candidates to hold office, to vote in elections or referendum, to attend membership meetings, and to participate in deliberations and voting upon the business of the organization, *except as specified in (insert provision label) if such provision is created.*
8. Non-Members (*and Suspended*) shall have no right or privilege to participate in any election, nor will they be entitled to receive any NYSUT services as defined by

---

<sup>11</sup> For NYSUT membership record-keeping purposes, when a unit member submits notice of intention to withdraw membership (verbal, e-mail, fax, etc.) NYSUT considers the time period between receipt of that notice and receipt of the NYSUT withdrawal a “pending withdrawal.” A Local may wish to use the same or similar terminology for that period of time.

NYSUT policies pertaining to non-membership of April 16, 2018 and September 14, 2018. Neither a Suspended Member nor a Non-Member is considered to be “in good standing.”

*This is the location where any provision that would speak to a Local curtail/restricting/limiting member rights due to re-entry/delayed entry would be inserted. Should a Local do so, it is strongly encouraged to carefully review the accompanying guidance memo with its LRS and fully discuss the matter prior to including any such restriction.*

9. *If a provision is included:* Formerly Suspended and Non-Members, who have recently become Active members shall have their members rights curtailed only as set forth herein:

*Insert Local determinations, if any, after discussion and review in accordance with companion memo*

## **V. OFFICERS**

1. The officers of the \_\_\_\_\_ shall be a President, Vice President, Secretary, and Treasurer (plus any additional offices the local may wish to include) (i.e. multiple Vice Presidents, responsible for specific duties or representing specific constituencies; combine secretary/treasurer; separate recording/corresponding secretaries).
2. Duties of the President: The President shall
  - a. Be chief executive officer of the \_\_\_\_\_.
  - b. Administer all affairs and execute all policies of the organization.
  - c. Be one of the responsible financial officers of the organization and shall be authorized to co-sign financial instruments and make regular and usual disbursements of funds.
  - d. Certify to the Secretary Treasurer of the American Federation of Teachers that the annual audit/internal financial review was presented to the Executive Board, as the organization’s governing body, and to the entire membership annually.
  - e. Preside at all meetings of the Executive Board and general membership.
  - f. Represent the organization with all external groups, and be the first delegate to the NYSUT Representative Assembly and the conventions of its national affiliates.

- g. Appoint and establish the function of all committees with the approval of a majority of the other elected officers.
- h. Call regular and special meetings of the Executive Board and general membership.
- i. Fulfill such other duties as the office requires and as are consistent with this constitution.

3. Duties of the Vice President:

- a. In the President's absence, the Vice President shall assume the duties and responsibilities of the President and shall perform such other duties as the President may designate. *(specific duties may be delineated for each vice-president)*
- b. Co-sign financial instruments in the absence of the President or Treasurer.

4. Duties of the Secretary:

Shall keep all records, minutes of meetings, election reports and ballots and committee and officer reports *(Minutes of meetings should be kept indefinitely due to possible audit by the Dept. of Labor and IRS).*

Duties of the Treasurer:

- a. receive, record and deposit all dues monies and other income in the name of the organization;
- b. reimburse local officials as mandated by the Expense Reimbursement Policy;
- c. maintain accurate membership records;
- d. where appropriate, a local may assign the duty of issuing membership cards and sending notices of dues delinquency to a separate membership coordinator;
- e. be one of the responsible financial officers of the organization and be authorized to co-sign financial instruments and make regular and usual disbursements of funds;
- f. maintain all financial records of the organization;
- g. present periodic financial reports to the Executive Board and an annual report to the general membership;
- h. collaborate with the Executive Board in the preparation of the annual budget;
- i. arrange for an independent audit/internal financial review of the finances of the organization annually no later than (month/day) and make same available to the Executive Board and membership;
- j. transmit per-capita payments on a regular basis to the Membership Reporting Department of the New York State United Teachers;
- k. perform other financial duties as delegated by the President or assigned by the Executive Board;

1. perform duties of the office and reports as required by the Labor Management Reporting and Disclosure Act, the Internal Revenue Service and the guidelines developed by NYSUT, AFT and NEA.

*Duties of Any additional Officer Delineated:*

5. Nominations

- a. Each Active member shall be given reasonable opportunity to nominate candidates for office and to run for office. *If restrictions are in place amend to reflect provision and limitations.*
- b. Notice of the offices to be filled, the right to make nominations, and the time, place, and proper form for submission of nominations will be published in (local publication) and/or announced in a letter from the President and/or Executive Board and be prominently posted in each work site.
- c. Nomination procedures shall be determined by the Executive Board and shall be in compliance with the requirements of the Landrum-Griffin Act (as attached).
- d. Advanced notification of all qualifications for elected office shall be provided to the membership.
- e. The Executive Board shall appoint an Elections Committee to conduct and monitor each election held by the local.
- f. Any Active member is eligible for nomination for office. *If restrictions are in place amend to reflect provision and limitations.*

6. Elections

- a. Written notice announcing the time and place of elections shall be mailed to each Active member (*or other authorized voter per Art. IV*) to the member's last known home address at least fifteen (15) days prior to the election, not including the date of mailing.
- b. Election shall be by secret ballot. (*language may be added to this section to prohibit or allow write-in votes and/or proxy votes*). *The principle of one-person, one-vote shall apply to all elections. Please note that the USDOL has not yet formally recognized on-line voting as satisfying LMRDA requirements.*
- c. No union funds or employer funds shall be utilized in any local election unless such funds are expended in a way consistent with the standards applicable to a union election which is subject to and governed by Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) ("Landrum-Griffin").



- d. Unless explicitly agreed to by the employer, no candidate is authorized to use employer e-mail addresses for campaign purposes.
- e. The results of the election shall be published in (local publication) and/or announced in a letter from the President or Executive Board, and posted prominently in each work site.
- f. The Secretary (and/or Elections Committee Chair) shall preserve all election records, including ballots, for a period of time equal to the term of office or the election cycle. (may be for a longer period if the local prefers). Further, if the election is contested, the records shall be preserved for a period of one year after a final determination is made in the contested election. (*again, may be for a longer period if the local prefers*)

*(Note: The by-laws may provide that the notice of nominations and of the election may be combined in one notice mailed to each member's last known home address at least fifteen (15) days prior to the election, not including the date of mailing.)*

*[NOTE: Since the President, by virtue of his/her office is automatically the first delegate, the ballot for the election of President shall also specify, "President (Delegate to the NYSUT Representative Assembly and its national affiliates)"*

- 7. Terms of Office. Duly elected officers shall serve a \_\_\_\_\_-year (*suggest 2 year*) term commencing \_\_\_\_\_. Each officer shall remain in office until his/her successor assumes the office. (*NYSUT does not recommend term limits.*)

*(Note: Landrum-Griffin requires that a term of office not exceed three (3) years.)*

## 8. Vacancies

- a. If the office of the President becomes vacant, the Vice President shall assume the office of President. *(if there are multiple vice-presidents, indicate which V.P. assumes presidency)*
- b. If any other office becomes vacant, it shall be filled by election by the Executive Board until the next election is held by the general membership.

*(Note: Locals may have additional elected positions of Union Representative/Building Representative/ Department Representative/Shop Steward. If so, the Constitution should specify their duties, how they are elected, the terms of office and define the representation – i.e. levels, by title or population, proportional to number of members; e.g. 1 representative per 15 or 20 members)*

## **VI. EXECUTIVE BOARD**

1. The Executive Board shall be composed of the duly elected officers and other elected positions as determined by the local. The Executive Board shall meet at least monthly. Special meeting may be called by the President or by petition of a majority of the Executive Board.
2. Duties: The Executive Board shall:
  - a. establish the salary, benefits and expense guidelines of any general officer who is employed by the organization.
  - b. be empowered to make contracts and incur liabilities including the purchase of services, equipment and real property, to borrow money, to secure such obligations by mortgage or other instrument, and to otherwise engage in financial transactions to the extent permitted by applicable law or statute. The Executive Board shall have the power to sue, complain and defend on behalf of the membership.
  - c. ensure that an annual financial report and an audit/internal financial review is presented to the membership.
  - d. ensure that an audit/review by an independent accounting firm *or* an internal financial review conducted by a committee of 3 – 5 members who do not sit on the Executive Board is presented to the membership annually.
  - e. ensure that an annual budget is adopted, in collaboration with the Treasurer, by the Executive Board/Membership no later than (month/day) annually.
  - f. implement an Investment Policy determining acceptable types of investments, maturity timeframes, and number of commercial banking relationships with assessments of these relationships based on periodic ratings by an independent

ratings service.

- g. establish a fiscal year for the local which shall commence (month/day) and end (month/day).
- h. adopt an expense reimbursement policy and update as necessary.
- i. interpret the constitution and by-laws.
- j. act on policy matters for the organization between the meetings of the general membership.
- k. make policy recommendations to the membership for their consideration.
- l. approve committee appointments.
- m. serves to hear appeals from members regarding decisions by the Grievance Committee.

## **VII. STANDING COMMITTEES**

Chairpersons and members of standing committees and ad hoc committees shall be appointed by the President with the approval of the Executive Board.

1. Negotiations (*having the Negotiations Committee be a standing committee will allow negotiations and preparation for negotiations to be an on-going endeavor; however, the Negotiations Committee need not necessarily be a standing committee; rather, an ad hoc committee appointed 1 to 1 ½ years prior to the expiration of the CBA*)
2. Grievance
3. Community Relations
4. Legislation/Political Action
5. Membership
6. Social Justice
7. Other (*Insert*)

## **VIII. DELEGATES TO NYSUT AND OTHER AFFILIATES**

Delegates to the NYSUT Representative Assembly, and other affiliates shall be elected by secret ballot in a manner consistent with the Constitution and By-laws of the appropriate state and national organizations and with the Landrum-Griffin Act.

## **IX. PROTECTION OF RIGHTS OF MEMBERS AND ENFORCEMENT OF MEMBERSHIP STANDARDS AND OBLIGATIONS**

1. No member may be fined, suspended, expelled, or otherwise disciplined (except for nonpayment of dues) by this organization unless such member has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing. Suspension or loss of membership shall be subject to the definitions set forth in Article IV.
2. No officer of the organization may be removed from office unless such officer has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing before the Executive Board. Any officer served with such charges may be represented by an advocate during such process. The Executive Board may be represented by an advocate during such process. Following the hearing, the Executive Board may recommend to the membership of the organization that the officer be removed from office by a two-thirds (2/3) vote of the Executive Board. Subsequently, the officer may be removed from office by a two-thirds (2/3) vote of the membership at a general membership meeting called for that purpose and pursuant to the organization's by-laws.
3. This organization shall not discriminate against any individual or group of individuals on the basis of sex, religion, color, race, marital status, sexual orientation, gender identity, national or ethnic origin, age, disability, or political activities and beliefs, except if such political activity is in support of a competing labor organization or otherwise acting in a way to dissolve the organization

## **X. RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS**

Approval or disapproval of any Collective Bargaining Agreement with the employer shall be determined by a majority vote of the Active members, from the unit to which the Collective Bargaining Agreement *at a membership meeting called specifically for that purpose.(or alternative method of ratification set by the Local.) Specific procedures (building vote, mail ballot, etc. defined in appropriate By-Law.*

*If a Local intends to have any modification of a CBA subject to ratification it must be clearly indicated, otherwise, the above should only be interpreted as to mean a full CBA*

*ratification, not a change to one provision as part of a grievance settlement, etc. Also please note, if a Local is going to require that a change to a single item, as one tied to a grievance settlement is the Local requirement, it must be disclosed to the employer when the settlement of that issue is reached otherwise, bringing to a vote is likely an Improper Practice on the part of the union.*

## **XI. AMENDMENTS**

1. An amendment to this constitution may be proposed by
  - a. A majority of the Executive Board.
  - b. No fewer than twenty (20) percent of the membership.
2. A proposed amendment must be posted in a conspicuous place in each work site and/or distributed in writing to each member at least five (5) days before the ratification vote.
3. An amendment may be ratified by a two-thirds (2/3) vote of Active at a general membership meeting, *or alternative method voting via mail ballot, etc.*

## **XII. PARLIAMENTARY AUTHORITY**

Meetings of all duly constituted bodies of this organization shall be governed by Roberts' Rules of Order, Newly Revised, except as otherwise provided in this constitution.

## **BY-LAWS**

### **DUES**

1. The dues of this organization shall be\_\_\_\_\_, plus the prevailing per capita amounts for the AFT/NEA and NYSUT whenever the dues of a required affiliate increases, the dues of the local shall automatically and simultaneously increase by the same amount.
2. Special Membership: The dues shall be \$\_\_\_\_\_, for retired members and \$\_\_\_\_\_for other special members, plus current NYSUT and national affiliate dues for their category of membership.
3. These dues may be changed by a simple majority vote of the general membership after reasonable notice of the intention to vote on such questions, or by majority vote of members in a membership referendum.

### **GENERAL MEMBERSHIP MEETINGS**

1. Meetings of the general membership may be called by the President, by a majority of the Executive Board or by petition of twenty (20) percent of the membership. Membership meetings shall be held no less than one time per year. (may be minimum of two or more per year)
2. Members shall receive written notification of regular general membership meetings fifteen (15) days prior to the date of the meeting. Special membership meetings may be called with fewer than fifteen (15) day notice, but the notification must be written and must state the purpose and agenda for the special general membership meeting.
3. A quorum at a regular general membership meeting shall consist of Active members present at a meeting called pursuant to these By-laws. A quorum at a special general membership meeting shall consist of ten percent (10%) of the members in good standing. *(the percent of the membership required for a quorum may vary depending on the size of the local)*

*(quorum may be established at a higher percentage for special meetings; percentage quorum may apply to regular general membership meetings as well; perhaps different percentages for regular and special meetings)*

## **ELECTION PROCEDURES**

*List specifics of voting procedures: in-person meeting only, paper ballots, in building, etc. Length of time to vote. If overnight, identify ballot security procedures.*

*Example: Ballots may be cast at the designated voting site in each building between 3:00 p.m. and 6:00 p.m. All voters will sign-in to confirm that a vote was made, but only in a way that does not impact the anonymity of the vote itself. The designated representative of the election committee will retrieve the ballot box and bring it to the counting location.*

*List method for counting and reporting, observation of counting etc.*

## **DISCIPLINE AND REMOVAL PROCEDURES**

*List specifics regarding hearing, witness, scope of evidence standards etc.*

## **AMENDMENTS**

1. An amendment to the By-laws may be proposed by
  - a. A majority of the Executive Board.
  - b. No fewer than twenty (20) percent of the membership.
2. A proposed amendment must be posted in a conspicuous place in each work site and/or distributed in writing to each member at least five (5) days before the ratification vote.
3. An amendment may be ratified by a simple majority vote at a general membership meeting.

*Revised December 2018*



## **Addendum I to Model Constitution and By-Laws for Local Affiliates**

### **Chapters**

Where the local affiliate represents more than one bargaining unit, the Constitution may contain provision for a chapter structure, i.e. each bargaining unit becomes a separate chapter of the local.

Each chapter shall have an Executive Officer whose title shall be "Chapter President".

The Chapter President(s) shall serve as a member(s) of the local's Executive Board.

If the chapters are large, consideration should be given to creating the additional positions of Chapter Vice President and Chapter Secretary.

There should not be separate "chapter dues" or a separate "Chapter Treasurer."

Chapter Presidents (and other chapter officers) are elected by a majority vote of the chapter's membership, to serve a term of \_\_\_\_\_ year(s). Refer to Model Constitution, Article VI, for Duties, Nominations, Elections, etc., (substitute "chapter" for "organization") the Chapter's Bylaws or policies;

Any Chapter policies, Bylaws, or Constitution shall be consistent, and not in conflict, with the local's constitution.

## **Addendum II to Model Local Constitution and By-Laws for Local Affiliates**

### **NYSUT Requirements**

1. In order for a local to affiliate with NYSUT, the local's constitution must contain provision for:

- The election of local officers.
- The composition and election of an Executive Board.
- The election of delegates to the NYSUT Representative Assembly, the AFT Convention, the NEA Representative Assembly and other national affiliates.
- The process of selection and function of local committees.
- The amount of dues for local programs.
- The protection of members' rights.
- Procedures for amending the local's constitution and by-laws.
- No discrimination on the basis of sex, sexual orientation, creed, color, race, national origin, or political activities or beliefs.

2. Policy of the NYSUT Board of Directors provides that the guidelines for determining whether or not a local is in compliance with By-Law A-1 of the NYSUT Constitution shall be the Rules and Regulations promulgated by the U.S. Department of Labor, pursuant to the Landrum-Griffin Act. A quick check-list of these requirements, as they pertain to local union elections, follows:

## Guidance for adjusting Local Constitutions and By-Laws in a Post-*Janus* World Regarding Membership Participation

### Introduction:

The following provides guidance to the field on how Local affiliates can review, and potentially revise, their constitutions and by-laws on matters surrounding membership and re-entry of membership following the *Janus* decision and amendments to the Taylor Law.

On September 14, 2018, NYSUT's Board of Directors adopted a policy governing the restrictions and limitations for receipt of NYSUT services for a bargaining unit member who either becomes a member after a period of initial non-membership, or resigned membership but subsequently re-joins after some period of time. (A copy of the September 14, 2018 Board policy is attached).<sup>2</sup> In addition, NYSUT recommended that Local affiliates determine what, if any, restrictions or limitations will be placed on such members.

It may be difficult to project precisely which limitations would be upheld by a court or PERB, as the analysis of Section 202 rights turns on the motivation behind the local's actions, which, in turn, requires a fact-specific, case-by-case analysis. Further complicating matters is that in a post-*Janus* world without agency fee payers, Locals may lawfully refuse to provide representation in certain "extra-contractual" matters such as §3020-a and §75 hearings, support before the Department of Labor, EEOC, etc. However, PERB has ruled<sup>3</sup> that there is an Improper Practice and/or a breach of the Duty of Fair Representation ("DFR") if the union's actions harm the person's employee status (are disciplined or laid off) or impact the terms and conditions of employment (lose benefits, over-time, job bidding, etc.) As a result, if a Local seeks to implement any limitations around membership and/or re-entry policies, the limitation should be "reasonable." Lastly, as illustrated below, even if a policy is arguably legal, it may be detrimental to the long-term health of the union.

### Legal Background:

The Taylor Law<sup>4</sup> provides that it is an improper employee organization practice for a union or its agents deliberately:

*(a) to interfere with, restrain or coerce public employees in the exercise of the rights granted in section two hundred two, or to cause, or attempt to cause, a public employer to do so provided, however, that an employee organization does not interfere with,*

---

<sup>2</sup> The policy refers to the possibility of creating a re-entry committee. This memo will not address that aspect. Should a Local want to consider that option, the LRS should speak directly with the Director of Field and Affiliate Services.

<sup>3</sup> *Transport Workers' Union* (Charles K. Asamoah), 47 PERB 3033 (2014).

<sup>4</sup> N.Y. Civ. Serv. Law §209-a.2. Underlined reflects April 2018 amendment. Also, for ease of reading the second paragraph of the statute that relates to a union's ability to handle disciplinary matters was omitted.

*restrain or coerce public employees when it limits its services to and representation of non-members in accordance with this subdivision; (b) to refuse to negotiate collectively in good faith with a public employer, provided it is the duly recognized or certified representative of the employees of such employer; or (c) to breach its duty of fair representation to public employees under this article.*

As stated in the introduction, PERB has only issued a few decisions related to membership rights that we can look upon for guidance to this specific analysis in the post-Janus world. There are countless cases that speak to traditional claims of the union not taking a grievance, excluding someone from a bargaining team, dissatisfaction with the outcome of negotiations, etc., which, while relevant to our overall approach, are not related to the immediate issue being examined. Based on the few cases from PERB (along with guidance from the NLRB) we can make some assumptions around what type of changes in a Local's constitution and by-laws would likely be examined by PERB.

It has been found that "the establishment of rules and qualifications for membership in an employee organization does not, *per se*, constitute an improper interference with the right to join an employee organization."<sup>5</sup> Similarly, "complaints about internal union discipline or other internal affairs which neither affect an employee's terms and conditions of employment nor violate any fundamental purposes of the Act"<sup>6</sup> aren't subject to PERB review. Further, PERB has held "[a]n employee's right to join an employee organization must, as a matter of reason and logic, be limited by and subject to the employee organization's membership requirements."<sup>7</sup> This decision continued by stating, "so long as those membership requirements do not conflict with the purposes and policies of the Act, and do not affect terms and conditions of employment, their application is beyond our jurisdiction."<sup>8</sup>

Also, in a case where members were expelled through a disciplinary process it was found "[t]here is no allegation in this case that the charging parties' expulsion for disloyalty had any effect upon their employment relationship. Neither does such expulsion impinge upon the basic policies and rights set out in §202 of the Taylor Law. The grant to employees of the right to join and participate in any employee organization does not preclude a union from the exercise of self-government, which may include the placement of reasonable conditions upon continued membership."<sup>9</sup>

In a similar case<sup>10</sup> the union expelled an employee from membership based on his support of a competing employee organization. Further, the employee alleged that the process for the expulsion was "undemocratic." PERB dismissed his charge even though "expulsion from

---

<sup>5</sup> Civil Service Employees Association (William Stanley), 23 PERB 3052 (1990).

<sup>6</sup> 47 PERB 3033.

<sup>7</sup> 23 PERB 3052.

<sup>8</sup> Id

<sup>9</sup> Civil Service Employees Association (Liebler, et al) 17 PERB 3072 (1984).

<sup>10</sup> 23 PERB 3052.

membership in CSEA has resulted in the loss of life insurance policies available to CSEA members, and has resulted in his exclusion from the contract ratification and union officer election processes."

The analysis changes though "[w]hen a decision to penalize a public employee is substantially motivated by reasons that are improper under the Taylor Law, the party imposing the penalty commits an improper practice even if additional legitimate reasons underlie its decision to do so."<sup>11</sup>

This distinction comes into focus in one case where the union committed a violation when the union caused the charging party to be put at the bottom of the seniority list for non-payment of dues. PERB held that this action violated 209-a.2(a).<sup>12</sup>

Moreover, in another case that pre-dated the creation of Agency Fee, the union assessed the employee \$100.00 when he rejoined the union. The union claimed that the \$100 represented an amount charged to members for funding a lawsuit. The employee claimed that it was a fine for dropping his membership. PERB found that it would be acceptable for the employee to pay the \$100.00 as a condition of membership since all union members had recently paid this amount under the special assessment, but that if it was found to be a fine for dropping membership, it was, in fact a violation of the Act.<sup>13</sup>

### **Conclusion:**

PERB has generally declined to review cases that are explicitly related to internal union matters, such as a union's handling of its internal elections. However, PERB will likely assert jurisdiction on limitations on membership rights and/or re-entry policies as those facts tend to be intertwined with the employee's right to non-discrimination in membership decision and/or rights under the duty of fair representation. Similar rules apply within the NLRB context, from which PERB draws much of its reasoning. That means unions are free to set terms of membership, provided those terms do not deprive the individual of any rights under the collective bargaining agreement and provided those terms do not violate the Taylor Law.

It is understandable that a Local may wish to take a "hard line," or even "send a message" to members and non-members with respect to re-entry rules by creating strict requirements. However, for the reasons provided, Locals must be careful not to do so in a way that is overly restrictive or could negatively impact terms and conditions of employment.

### **Practical Guidance:**

The following scenarios highlight some of the issues a Local may want to consider:

---

<sup>11</sup> Captain's Endowment Assn. (Bruce J. Mallory), 15 PERB 3019 (1982).

<sup>12</sup> 47 PERB 3033.

<sup>13</sup> 15 PERB 3019.

1. The union takes the position that a unit member (covered by the collective bargaining agreement) must be a union member (dues paying member in good standing) for at least three years before the member can run for office. At first glance, this seems permissible. However, the CBA has a release time provision, which from the perspective of some is viewed as a benefit. The release time benefit would only be potentially available to members who have been union members at least three years. Taken together, this creates a situation where a union member, who has arguably been a member since day one, is not able to be eligible to take advantage of that CBA provision and could assert that he or she has been denied a benefit due to the Local's internal rules. Now, the issue has converted from an internal rule into one covered by the Taylor Law and potentially subject to PERB enforcement.

If we take the same scenario, but change the waiting period to six months is the possible exposure still there? Yes, but as it is a shorter and more reasonable period, it is unlikely—though not impossible -- that if a charge were filed, PERB would deny the charge due to the reasonableness of the overall circumstances.

2. The Local has a modest initiation fee of \$50.00. It also has a policy stating that if a member leaves, then wants to re-join, there is a fee equal to the Local dues that would have been paid over that time period. Local dues are \$200 per year. A unit member works for three years and then decides to join which requires a \$650.00 payment. That may be permissible. However, adding in reasonably likely facts, the situation becomes more complicated.

The union also has a policy (like NYSUT's) that it will not support non-contractual advocacy. The reason the person decided to join after three years is because the employer is delaying the employee's return to work (to align with a semester change) after being on an unpaid FMLA leave. The person wants help filing a complaint with the Department of Labor as he or she has been without pay for months and can't afford to go any longer without money. The person simply does not have \$650.00 for joining and may not for the foreseeable future. The union refuses to waive the fee and denies membership.

Even if legally permissible, it places the union in a dangerous place. Consider that one of the main reasons for having a union is to "be there" in times of need. In this situation, the person needs help and is in a very vulnerable situation that will generate sympathy from many people. Having such a firm rule could backfire on the union with the decision possibly viewed by some as "heartless." Not only does the potential member not join, but the decision could have a cascading effect that either results in political unrest or prompts members to drop in reaction to it.

Based on the foregoing, consider the following as general guidelines a Local may use in reviewing and revising its constitution and by-laws.

1. Objective criteria should be used. For example, avoid a policy where officers vote on the rights for non-members who re-enter membership each time someone re-enters.

Subjective criteria could lead to inconsistent results and allegations of discrimination or bad faith.

2. Avoid imposing excessive, lengthy time restrictions. For example, it would not be advisable for a Local to require a member to wait six years to run for union office following re-entry of membership. Shorter time restrictions will likely be considered more reasonable and not found to be an impermissible interference or restraint on membership.
3. Avoid imposing excessive re-entry fees or requiring large payments of back dues that could arguably be deemed financially restrictive for certain members. The analysis should factor in criteria such as title, salary, etc. As discussed above, even if it is legally permissible (maybe) it could lead to an unintended de-stabilizing outcome.

Date presented to Representative Council: February 27, 2019

Date presented to membership:

Date approved by membership:

# EASTCHESTER TEACHERS' ASSOCIATION CONSTITUTION

## Article I – Name

The name of this organization shall be the “Eastchester Teachers’ Association.”

## Article II – Purpose

The purpose of this organization shall be:

1. To promote interests of public education.
2. To advance the standards of the teaching profession.
3. To promote the general welfare of its Members.
4. To promote better understanding of educational issues among teachers and members of the community.
5. To maintain a close relationship with other professional and affiliate educational organizations.
6. To promote communication among the professional staff, the administration, and the Board of Education.

## Article III – Affiliations

This organization shall be affiliated with the New York State United Teachers (NYSUT) and its national affiliates.

## Article IV – Membership

1. There shall be the following membership categories: active, reserved, and retired.
  - a. Active – Active membership in the ETA shall include any member of the instructional staff (full-time or part-time teachers, or teaching assistants, or as provided by the recognition clause of the CBA) engaged in teaching in the public schools of the Eastchester Union Free School District. ~~Retired teachers who were members of the ETA at the time of retirement shall be considered active members.~~
  - b. Reserve – Reserve membership is available to those members who are on unpaid leave. These members are entitled to all ETA benefits.
  - c. Retired – Retired teachers who were members of the ETA for the 10 years immediately preceding the date of their retirement from the District, shall be considered Retiree members and eligible for all Retiree Benefits.
  - d. Suspended – A suspended member is one who completed all enrollment materials whose dues are not currently up to date and/or paid in full. A suspended member has not indicated an intention to withdraw membership.
  - e. Non-Member – A Non-Member is a person employed or newly hired to whom one of the following applies:
    - The person has not completed enrollment into the union.
    - The person enrolled into the union and has taken action to withdraw membership from the union
    - A person who was in Suspended status who, after a reasonable period of time has refused to bring dues arrears up-to-date.
  - f. Associate – ~~Associate membership is available to those professional personnel in the Eastchester Union Free School District who are not part of the ETA bargaining unit and are administrators with some teaching responsibility.~~



2. Membership Qualifications:

- a. Membership in the ETA shall include membership in the New York State United Teachers, ~~the American Federation of Teachers~~ and its national affiliates. **Membership shall be maintained through the payment of all required dues.**
- b. Active personnel shall become members upon ~~full payment of dues or by written authorization of the payroll deduction plan~~ completion of NYSUT enrollment/payroll authorization form. ~~Part-time, retired, and associate personnel shall become members upon payment of a percentage of the regular annual dues set by the ETA, NYSUT, and AFT.~~
- c. **All Active members shall have equal rights and privileges to nominate candidates to hold office, to vote in elections or referendum, to attend membership meetings, and to participate in deliberations and voting upon the business of the organization.**
- d. Membership is not to be barred ~~to anyone because of race color, creed, sex, or national origin.~~ on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation.
- e. ~~Associate~~ Reserve members may attend and participate at ETA meetings and shall have full voting rights. Reserve members are eligible to run and hold office as long as they are not out more than 12 weeks on leave. Reserved members on leave for more than 12 weeks, are not eligible to hold office. ~~but may not vote in any deliberations or be eligible for office. Part-time and retired teachers have full voting rights but shall not be eligible for any elective office or appointment as chairperson of any standing committee~~
- f. **Non-Members and Suspended Members shall have no right or privilege to participate in any election, nor will they be entitled to receive any NYSUT services as defined by NYSUT policies pertaining to non-membership of April 16, 2018 and September 14, 2018. Neither a Suspended Member nor a Non-Member is considered to be "in good standing."**
- g. **Members who re-enroll after being in a Suspended or Non-Member status shall be required to pay 25% of back dues in order to be an Active member.**
- h. Retired members can attend general membership meetings (except ratification meetings), social activities and access voluntary benefits through the Welfare Fund.

**Article V – Executive Board Officers**

There shall be a President, ~~three~~ Vice-Presidents (Executive Vice-President, Vice-President of Professional Development, **and Vice President of Professional Rights and Responsibilities**), a Secretary, a Treasurer, **and appointed negotiator(s).**

All officers, in addition to the duties listed below, shall be available to assist with Member concerns, handle correspondence as pertinent to their position and contribute to The Examiner and the ETA Website.

1. Duties of the President / **1<sup>st</sup> Convention Delegate** – the President shall:

- a. Be chief executive officer / negotiator of the Eastchester Teachers' Association.
- b. Administer all affairs and execute all policies of the organization.
- c. **Be one of the responsible financial officers of the organization and shall be authorized to co-sign financial instruments and make regular and usual disbursements of funds.**
- d. **Shall serve as a member of the Board of the Eastchester Teachers Trust Fund and attend meetings.**
- e. **Preside at all meetings of the Executive Board, Representative Council, and general membership.**
- f. **Call regular and special meetings of the Executive Board, Representative Council, and general membership.**
- g. **Fulfill all such other duties as the office requires and as are consistent with this constitution.**
- ~~h. Preside at all meetings of the ETA.~~
- ~~i. Preside at all meetings of the Executive Board.~~

- ~~j. Issue the call for all regular meetings of the ETA.~~
- ~~k. Be a member of the Negotiating Committee.~~
- ~~l. Appoint all the other committees for which there are no provisions.~~
- ~~m. Be an ex-officio member of all committees.~~
- ~~n. Attend meetings~~
- ~~o. Represent the ETA at ED 15-16 Presidents' Council meetings.~~
- ~~p. Be a member of the Grievance Committee.~~
- ~~q. Be a member of the BEPT Policy Board and attend special events when needed.~~
- ~~r. Be a member of the PTA Council.~~
- ~~s. Have the ability to designate another officer or member of the Executive Board to attend a meeting in their absence.~~
- t. Oversee the content and distribution of the ETA newsletter and any other notifications to the ETA membership.**

2. Duties of the Executive Vice President – This Vice President shall:

- a. In the President's absence, the Executive Vice President shall assume the duties and responsibilities of the President and shall perform such other duties as the President may designate.**
- ~~b. Be a member of the Negotiating Committee.~~
- c. Act as a Liaison to the Political Action Committee.**
- ~~d. Act as a liaison with community and school organizations.~~
- ~~e. Act as Vote COPE Coordinator and Legislative Chairperson.~~
- ~~f. Preside in the absence of the President.~~
- ~~g. Assist the President with special projects or committee assignments.~~
- h. In coordination with the President, be responsible for press releases and other public communications.**
- ~~i. Be a member of the~~
- ~~j. Coordinate Leadership Conference and NYSUT RA attendance~~
- ~~k. Coordinate the maintenance of the Seniority List and report to the President on the status of the Seniority List~~

3. Duties of the Vice President of Professional Development – This Vice President shall:

- a. In the absence of the Executive Vice President, the Vice President of Professional Development shall assume the duties and responsibilities of the Executive Vice President and shall perform such other duties as the Executive Vice President may designate.**
- ~~b. Be a member of the Negotiating Committee.~~
- ~~c. Coordinate the New Member Program, as needed.~~
  - ~~• Promote awareness of the ETA to new Members.~~
  - ~~• Provide professional support and guidance to new Members.~~
  - ~~• Communicate the needs and concerns of new Members to the ETA Executive Board~~
- ~~d. Represent the ETA on the Professional Development Committee and Administrative Council.~~
- e. Represent the ETA at teacher center meetings.**
- ~~f. Act as a resource for Members regarding certification concerns~~ **course approval for salary advancement.**
- g. Periodically Communicate opportunities for Professional Development to the membership.**
- ~~h. Attend monthly BEPT Policy Board Meetings~~
- ~~i. May convene a committee of voluntary members to assist newly hired teachers in assimilating to the "culture" of the Eastchester School Community.~~
- ~~j. Coordinate registration for the Leadership Conference.~~
- ~~k. Assist the President with special projects or committee assignments.~~
- ~~l. Be a member of the Grievance Committee.~~

4. Duties of the Vice President of Professional Rights and Responsibilities – This Vice President shall:
- In the absence of the Vice President of Professional Development, the Vice President of Professional rights and Responsibilities shall assume the duties and responsibilities of the Vice President of Professional Development and shall perform such other duties as the Vice President of Professional Development may designate.
  - Be the chairperson of the Grievance Committee.
  - Represent the Eastchester Teachers' Association at all Grievance discussions with Central Administration.
  - Maintain an accurate and up-to-date file on all pending and resolved Grievances.
  - Make a progress report on all pending Grievances at each meeting of the Executive Board and Representative Council.
  - Be a member of the Negotiation Committee.
5. Duties of the Secretary – The Secretary shall:
- Shall keep all records, minutes of meetings, election reports and ballots and committee and officer reports.
  - Distribute an agenda for Representative Council and General Membership meetings.
  - Maintain an up-to-date membership e-mail list.
  - Be responsible for distributing the minutes of all Executive Board and General Membership meetings to the membership through their Building Representatives.
  - Assist the President with the preparation of other internal and external communications.
  - Organize and maintain an up-to-date file of all District job postings.
  - Act as a liaison to the Membership Coordinator.
  - Fulfill all such other duties as the office requires and as are consistent with this constitution.
  - ~~Assist the President and Committee Chairs with enrollment of Members, maintenance of up-to-date membership lists, as well as maintaining a personal communication avenue for each member.~~
  - ~~Keep a record of all meetings.~~
  - ~~Keep a record of attendance at all meetings and preserve for one year the ballots and all other records pertaining to all ETA elections.~~
  - ~~Update and coordinate the distribution of the Member Directory.~~
6. Duties of the Treasurer – The Treasurer shall:
- Receive, record and deposit all dues monies and other income in the name of the organization.
  - Reimburse local officials as mandated by the Expense Reimbursement Policy.
  - Be one of the responsible financial officers of the organization and be authorized to co-sign financial instruments and make regular and usual disbursements of funds.
  - Maintain all financial records of the organization.
  - Present periodic financial reports to the Executive Board and Representative Council, and an annual report to the general membership.
  - Collaborate with the Executive Board and Representative Council in the preparation of the annual budget.
  - Arrange for an independent audit of the finances of the organization annually and make same available to the Representative Council and the general membership.
  - Transmit per-capita payments on a regular basis to the Membership Reporting Department of the New York State United Teachers.
  - Perform other financial duties as delegated by the President or assigned by the Executive Board.
  - Perform duties of the office and reports as required by the Labor Management Reporting and Disclosure Act, the Internal Revenue Service and the guidelines developed by NYSUT, AFT and NEA.
  - ~~Keep an accurate account of all receipts and expenditures of the ETA.~~

- ~~l. Develop, maintain, and update a list of usual and customary operating expenses.~~
  - ~~• Receipts for usual and customary operating expenses may be submitted to the Treasurer for reimbursement without prior approval.~~
  - ~~• Expenses not considered usual or customary must be submitted in advance to the Treasurer for prior approval.~~
- ~~m. Obtain authorization for disbursement of expenses that are not usual or customary from the President and/or Executive Board.~~
- ~~n. Disperse funds only by check and upon authorization.~~
- ~~o. At each meeting, make a report on the financial status of the ETA.~~
- ~~p. Make his or her annual budget report in person.~~
- ~~q. File all necessary financial and tax reports.~~
- ~~r. File end of year reports to the auditor.~~
- ~~s. Consult with the President on investments and money management.~~
- ~~t. As needed, assist with collection and distribution of funds in the event of a District Retirement/End of Year party.~~

~~Removal of Officers—An officer may be removed from office by a two-thirds vote of the members of the ETA. The meetings shall be presided over by the President or the Legislative Chairperson.~~

- 7. Vacancies – If the office of the President becomes vacant, the Executive Vice President shall assume the office of the President. If any other office becomes vacant, it shall be filled by appointment by the Executive Board until the next election is held by the general membership. In case of the resignation of any officer, the Executive Board shall have the power to fill the vacancy by a majority vote until the next annual meeting of the ETA. If vacancy was for 3 months or less, the President may appoint someone from the Representative Council to fill the vacancy. If vacancy is for more than 3 months, the vacancy must be filled by a special election.

## Article VI – Representative Council

The Representative Council shall:

- 1. The Representative Council shall be composed of the duly elected officers, and other elected and appointed positions, as determined by the Eastchester Teachers' Association. The Representative Council shall meet at least monthly. Special meetings may be called by the President or by petition of a majority of the Representative Council.
- 2. Consist of voting and non-voting members.
  - a. Voting Members shall include the following elected positions: the six officers, the building representatives, the convention delegates (or alternates), and the NYSTRS delegate.
  - b. Non-Voting Members shall include all appointees, the chairperson of the retirees' chapter (or his/her designee), and the immediate past president.
- 3. Establish the salary, benefits, and expense guidelines of any general officer or appointed representative who receives a stipend from the Eastchester Teachers' Association.
- 4. Interpret the Constitution and By-Laws.
- 5. Approve committee appointments.
- 6. Hear appeals from members regarding decisions by the Grievance Committee.
- 7. Appoint a Parliamentarian, when necessary.
- 8. Meet at least once a month, and may be called into special sessions by the President or by a majority of the Members thereof.
- 9. Be empowered to make contracts and incur liabilities including the purchase of services, equipment and real property, to borrow money, to secure such obligations by mortgage or other instrument, and to otherwise

- engage in financial transactions to the extent permitted by applicable law or statute. The Representative Council will have the power to sue, complain and defend on behalf of the membership.
10. Ensure that an independent audit of the finances of the organization is completed and reported to the general membership annually.
  11. Ensure that an annual budget is adopted, in collaboration with the Treasurer, by the membership annually.
  12. Implement an Investment Policy determining acceptable types of investments, maturity timeframes, and number of commercial banking relationships with assessments of these relationships on periodic ratings by an independent ratings service.
  13. Implement an expense reimbursement policy and update as necessary.
  - ~~14. Be responsible for the routine business of the ETA.~~
  - ~~15. Be responsible for the implementation of policies decided by the General Membership.~~
  - ~~16. Report to the General Membership any action it has taken at the next General Membership meeting.~~

#### **The Building Representatives shall:**

1. There shall be a Building Representative in each building based on the ratio of one representative to each of twelve teachers or fraction thereof.
2. Building Representatives shall be elected by the members in each building prior to the first **Representative Council** meeting in September.
3. Attend all Representative Council and General Membership meetings.
4. Report back to the Membership after an Representative Council meeting.
5. Distribute all ETA materials and notices to Members in their buildings.
6. Represent members at building level meetings with administration. ~~Members in any potential grievance.~~
7. Participate in monthly meetings with the building principal to discuss matters of concern and interest to the Membership.
8. Hold building level meetings with members following the Representative Council meeting.  
~~Be responsible for Membership reports to the Vice President for Political Action of the ETA.~~
9. There shall be one Head Building Representative appointed by the President in each building from the elected Building Representatives.
  - a. The Head Building Representative shall report to the Executive Board ~~President or designated Vice-President~~ on all matters raised at building level meetings with members and/or administration. ~~assigned to the Building Representatives, including minutes of monthly meetings with building administration.~~
  - b. Shall be responsible for distribution and collection of materials in their building. ~~collected through or distributed by the Building Representatives shall be channeled through the Head Building Representative.~~

#### **Article VII – Delegates**

1. Convention Delegates (or alternates) shall:
  - a. Delegates to the NYSUT Representative Assembly and other affiliates shall be elected by secret ballot, consistent with the ETA Constitution and By-Laws of the appropriate state and national organizations and with the Landrum-Griffin Act. There shall be a 2<sup>nd</sup> and 3<sup>rd</sup> delegate, as well as 2 alternate delegates to the NYSUT RA.
  - b. Be Active ETA members.~~Convention Delegates (or alternates)~~
  - c. Shall represent the membership at the annual New York State United Teachers Representative Assembly.  
~~The President shall be the first Convention delegate.~~
2. Delegate to the New York State Teachers' Retirement System.

- a. If elected from the ETA, will represent the certified staff at the annual NYSTRS convention.
  - b. Shall report all pertinent information to the membership.
- ~~3. Retirement delegate (or alternate)~~

### **Article VIII – Nominations and Elections**

1. Officers shall be elected at the Annual Business Meeting in April, hereinafter referred to as the Election.
2. Officers shall serve a two (2) year term.
3. Nomination Procedure:
  - a. The President shall appoint one (1) Member from each school to the Nominating Committee. If this constitutes an even number of Members, then the President shall appoint one additional Member at large to the Nominating Committee. This shall be done at least thirty (30) days prior to the election.
  - b. The Nominating Committee shall present its nominations to the Representative Council at least twenty (20) days prior to the Election, which may reject the nominations and substitute its own by a two thirds (2/3) vote of the Board.
  - c. The President shall distribute the names of the nominees at least fifteen (15) days prior to the election.
  - d. Nomination of any Member not nominated by the Nominating Committee may be submitted to the President by means of a Nominating Petition; which shall contain the name of the nominee, the office of which nominated, and the signatures of at least fifteen (15) Members in good standing. Such petition shall be presented to the President at least ten (10) days before the Election.
  - e. The President shall present to all Members a list of all nominees and the offices for which nominated at least five (5) days before the Election.
  - f. Nominations from the floor on Election Day may be made only if on the day of the Election a nominee withdraws. In that case, a nomination may be made only in replacement for the nominee who withdrew.
  - g. Elections shall be by secret ballot unless there is no opposition to a nomination, in which case the Secretary shall be instructed to cast one vote for the unopposed nominee.

### **Article IX - Ratification**

1. Approval or disapproval of the Collective Bargaining Agreement between the parties will be determined by a majority vote of the Active members in good standing in attendance at a membership meeting called specifically for that purpose.
2. Proxy votes shall be included in the count of present members under the following conditions:
  - a. Attendance at a university, other school, educational conference, or other professional activity.
  - b. Family emergency (specify).
  - c. Appointment with a physician or dentist (must be specified).
  - d. Any other reason, which must be accepted by an open vote of the meeting for which the proxy is submitted.
  - e. Personal illness.

### **Article ~~X~~ – Meetings**

~~There shall be at last two (2) meetings of the general membership per year, one that shall be the Annual Business Meeting in April, held at an hour and place designated by the Executive Board. Special meetings may be called by the Executive Board or upon written request of fifteen (15) Members of the ETA. Three (3) days' notice must be given to the Membership of such a meeting.~~

~~Only Members in good standing, shall be entitled to attend meetings and also receive all official ETA correspondence for meetings.~~

~~A quorum for all general membership meetings shall consist of 20% of the membership in good standing attending any meeting, one-half (1/2) the Members attending any meeting, plus proxy votes.~~

~~1. It shall be permissible for Members of the ETA to vote by proxy under the following conditions:~~

~~a. Proxy votes may be submitted through any ETA Member.~~

- ~~• The proxy must give the absent Member's name, the name of the designated proxy, the reason for absence, and proxy instructions.~~
- ~~• In the absence of instructions, the attending Member may vote the proxy in any manner.~~
- ~~• Proxies must be attached to a paper ballot or submitted to the Secretary or designated Parliamentarian on an open vote.~~
- ~~• Any challenge as to the reason for submission of a proxy must be resolved by a majority vote of those present at the meeting.~~

## **Article X - Standing Committees and other Positions**

**Committee Coordinators/Chairpersons will be appointed by the President with approval from the Executive Board.**

### **1. Political Action Committee**

- a. Shall be comprised of voluntary members of the ETA and a coordinator appointed by the President. Coordinator / 3<sup>rd</sup> Convention Delegate shall:**
- b. The Political Action Coordinator will convene and coordinate a voluntary committee to address legislative issues that affect the membership and profession.**
- c. Study, Report and Implement appropriate action on pertinent educational legislation.**
- d. Attend ED 15/16 meetings and Committee of 100 meetings**
- ~~e. Act as Vote COPE Coordinator.~~
- ~~f. Coordinate phone banks.~~
- ~~g. Assist the President and Vice Presidents with special projects.~~

~~Legislative Political Action Committee – Legislative The Political Action Committee shall:~~

- ~~h. Study and report on such legislation as may affect the Membership and the profession.~~
- ~~i. Encourage appropriate action on a pertinent legislation.~~
- ~~j. Coordinate the annual Vote COPE campaign.~~
- ~~k. Attend ED 15-16 meetings.~~

### **2. Negotiations Committee – The Negotiations Committee shall:**

- a. Be comprised of the President Vice Presidents and appointed negotiator(s).**
- b. Be responsible for the negotiation of the Collective Bargaining Agreement between the ETA and the Eastchester UFSD. The contract between the ETA and the Board of Education shall not become effective until approved by a majority vote of the Membership, including proxies, at a General Membership meeting called for that purpose.**
- c. Be responsible for negotiations of interim contractual agreements.**
- ~~d. In any given year, in which direct negotiations are not required, monitor the application of the contract.~~
- ~~e. Gather data and any such information as may be necessary for actual contract negotiations.~~
- ~~f. Be ex-officio Members of the Grievance Committee.~~

### **3. Grievance Committee – the Grievance Committee shall:**

- a. The Vice President of Professional Rights and Responsibilities shall act as the Grievance Chair.**



- b. The committee shall assist the aggrieved party in the processing and preparation of any grievance.
- c. Prepare a form to be distributed to each Member at the beginning of each school year. Such a form shall consist of an explanation of the Grievance Procedure together with a form that each Member may use to submit a grievance to the Grievance Committee.
- d. Educate the membership in Grievance policies and procedures.
- e. ~~Maintain an accurate and up-to-date file on all pending and resolved grievances.~~
- f. ~~Make a progress report on all pending grievances at each meeting of the Executive Board.~~

~~Grievance Committee Chair shall:~~

- a. ~~Initiate Grievance discussions with appropriate District/Administration members and follow the protocol and procedures of the Grievance Process as laid out in the CBA~~
- b. ~~Maintain an accurate and up-to-date file on all pending and resolved grievances.~~
- c. ~~Make a progress report on all pending grievances at each meeting of the Executive Board.~~

~~17. Public Relations Committee – The Public Relations Committee shall:~~

- a. ~~Be responsible for press releases and other public communications.~~
- b. ~~Assist the President with the preparation of other internal and external communications.~~

4. Nominating Committee – The Nominating Committee shall supervise the nomination procedure as set forth in Article VII herein.

- a. Shall be appointed by the President and represent each building in the District.

5. Health and Safety Committee – the Health and Safety Committee shall:

- a. Shall be appointed by the President and be comprised of a member from each building.
- b. There shall be 2 committee co-chairs representing the Elementary and Secondary levels of the District.
- c. Initiate health and safety discussions with building principals and/or custodians.
- d. Be responsible for accepting and investigating all health and safety concerns.
- e. Follow up on health and safety discussions with the Director of Facilities and the Superintendent.
- f. ~~Notify NYCOSH, The Department of Labor, the Health Department, and/or any other necessary agency if any further action needs to be taken.~~

~~Membership Committee – New Member Committee – The New Member Committee shall:~~

- g. ~~Promote awareness of the ETA to new Members.~~
- h. ~~Assist newly hired teachers in assimilating to the “culture” of the Eastchester School Community.~~
- i. ~~Provide professional support and guidance to new Members.~~
- j. ~~Communicate the needs and concerns of new Members to the ETA Executive Board.~~

6. Membership Coordinator shall:

- a. Assist the President, Secretary, and Committee Chairs, with Enrollment of Members and maintenance of up-to-date membership lists, including personal e-mail, for ETA correspondence.
- b. Maintain NYSUT membership list.
- c. Coordinate the maintenance of the Seniority List and report to the President on the status of the Seniority List.

7. Newsletter Editor(s) shall:

- a. Be responsible for producing between 8 and 10 newsletter issues per year.

8. Leave of Absence Coordinator shall:

- a. Be appointed by the President.



- b. Provide assistance regarding application for leave of absence as provided by the Collective Bargaining Agreement.

9. Social Coordinator shall:

- a. Be appointed by the President.
- b. Be responsible for planning the Annual End-of-the-Year Party as well as other social events.

**Article XI – Amendments to the Constitution**

1. Any Member of the Association may introduce an amendment in writing at any meeting of the Representative Council.
2. The writing must specify the Article or part of the Article to be amended by the exact language of the intended amendment.
3. The amendment must be approved by two-thirds (2/3) of the actual membership of the Representative Council and then be submitted to the General Membership. The amendment must then be approved by a two-thirds (2/3) vote, including proxies.
4. In the event the Representative Council fails to approve the amendment by the necessary two-thirds (2/3) vote, a petition for a vote by the full membership, signed by twenty-five (25) members of the Association shall be sufficient to require the submission of the amendment to the membership.
5. Voting by the membership shall be conducted on the same day in each building. The vote shall be by secret ballot, prepared by the Executive Vice President ~~Legislative Chairperson~~, and shall be conducted within seven (7) days of the actual notification. ~~of the Members of the proposed amendment~~
6. No amendment may be presented to the membership after May 15<sup>th</sup> of any school year.

**Article XII – Protection of Rights**

1. No member may be fined, suspended, expelled or otherwise disciplined (except for nonpayment of dues) by this organization unless such member has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing. Suspension or loss of membership shall be subject to the definitions set forth in Article IV (Membership.)
2. No officer of the organization may be removed from office unless such officer has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing before the Representative Council. Any officer served with such charges may be represented by an advocate during such process. The Representative Council may recommend to the membership of the organization that the officer be removed from office by a two-thirds (2/3) vote of the membership at a general membership meeting called for that purpose and pursuant to the organization's by-laws.
3. This organization shall not discriminate against any individual or group of individuals on the basis of sex, religion, color, race, marital status, sexual orientation, gender identity, national or ethnic origin, age, disability, or political activities and beliefs, except if such political activity is in support of a competing labor organization or otherwise acting in a way to dissolve the organization.

**Article XIII – Bill of Rights**

~~This organization shall adhere to the Landrum-Griffin Act, when applicable, and any other applicable statutes.~~

**Article XIII – Parliamentary Authority**

Robert's Rules of Order shall be the authority on all questions of procedure not specifically stated in the Constitution.

DRAFT

Date presented to Representative Council: February 27, 2019

Date presented to membership:

Date approved by membership:

**BY-LAWS  
Of The  
Eastchester Teachers' Association**

**Dues**

1. The dues of this organization shall be \$200, plus the prevailing per capita amounts for the AFT/NEA and NYSUT whenever the dues of a required affiliate increases, the dues of the local shall automatically and simultaneously increase by the same amount.
2. These dues may be changed by a simple majority vote of Active members present at a general membership meeting after reasonable notice of the intention to vote on such issues.
3. ~~The rate of dues cannot be increased nor can general or specific assessments be levied upon Members except by majority vote of the Members in good standing voting at a General Membership meeting.~~
4. ~~The dues of the ETA shall be equal to the sum of the dues of the ETA, plus NYSUT and its affiliates.~~

**General Membership Meetings**

1. There shall be at last two (2) meetings of the general membership per year, one that shall be the Annual Business Meeting in the spring, held at an hour and place designated by the Executive Board.
2. Special meetings may be called by the Executive Board or upon written request of fifteen (15) Members of the ETA. Three (3) days' notice must be given to the Membership of such a meeting.
3. Only Members in good standing, shall be entitled to attend General Membership meetings and also receive all official ETA correspondence for meetings.
4. A Quorum for all General Membership meetings shall consist of 10% of Active members in good standing who are present at the meeting.  
~~Meetings of the general membership may be called by the President, by a majority of the Executive board or by petition of twenty percent of the membership. Membership meetings shall be held no less than two times per year. One of the meetings shall be the Annual Business meeting in April. Members shall receive notification of regular general membership meetings fifteen days prior to the date of the meeting. Special membership meetings may be called with fewer than fifteen day notice, but the notification must be written and must state the purpose and agenda for the special general membership meeting.~~  
~~A quorum at a regular general membership meeting shall consist of Active members present at a meeting called pursuant to the By Laws. A quorum at a special general membership meeting shall consist of ten percent of the members in good standing.~~

**Amendments**

1. An amendment to the by-Laws may be proposed by
  - a. A majority of the Representative Council, or no fewer than twenty percent of the membership.
2. A proposed amendment must be posted in a conspicuous place in each work site and/or distributed in writing to each member at least five days before the ratification vote.
3. An amendment to the By-Laws may be ratified by a simple majority vote of Active members in good standing voting at a general membership meeting.

## Constitution & By-laws

**Article** Draft / Final

[illegible]



# Constitution and Bylaws

**Effective April 28, 2018**



## **NYSUT MISSION STATEMENT**

Through a representative democratic structure, New York State United Teachers improves the professional, economic and personal lives of our members and their families, strengthens the institutions in which they work, and furthers the cause of social justice through the trade union movement.

---

## TABLE OF CONTENTS

---

### CONSTITUTION

ARTICLE		PAGE
<b>I.</b>	NAME .....	1
<b>II.</b>	OBJECTIVES .....	1
<b>III.</b>	AFFILIATIONS .....	1
<b>IV.</b>	LOCALS & COUNCILS .....	1
<b>V.</b>	MEMBERSHIP .....	2
<b>VI.</b>	DUES .....	2
<b>VII.</b>	OFFICERS .....	3
<b>VIII.</b>	REPRESENTATIVE ASSEMBLY .....	4
	PROTOCOL .....	4
	COMPOSITION .....	5
	REPRESENTATION .....	5
	POWERS AND DUTIES .....	6
<b>IX.</b>	BOARD OF DIRECTORS .....	6
<b>X.</b>	EXECUTIVE COMMITTEE .....	8
<b>XI.</b>	REFERENDA .....	9
<b>XII.</b>	AMENDMENTS .....	9

### BYLAWS

BYLAW		PAGE
<b>A.</b>	LOCALS & COUNCILS .....	10
<b>B.</b>	MEMBERSHIP .....	11
<b>C.</b>	REPRESENTATIVE ASSEMBLY .....	12
	PROCEDURES .....	12
	REPRESENTATION .....	12
	PROCEEDINGS FOR THE REMOVAL OF OFFICERS AND AT-LARGE DIRECTORS .....	12
<b>D.</b>	BOARD OF DIRECTORS .....	12
<b>E.</b>	REFERENDA .....	13
<b>F.</b>	QUORUM .....	13
<b>G.</b>	PARLIAMENTARY PROCEDURE .....	13
<b>H.</b>	FISCAL YEAR, RECORDS AND REPORTS .....	13
<b>I.</b>	PRINCIPAL OFFICE .....	13
<b>J.</b>	SPECIAL RULES OF ORDER FOR REPRESENTATIVE ASSEMBLY .....	13



---

# CONSTITUTION

## OF THE

# NEW YORK STATE UNITED TEACHERS

---

<b>ARTICLE I</b>
------------------

<b>NAME</b>
-------------

1 This organization shall be known as the  
2 New York State United Teachers ("NYSUT").

3 As the successor of the New York State  
4 Teachers Association, the United Teachers of  
5 New York State, Inc. and the NEA/NY, NYSUT  
6 may also be publicly identified as "NYSUT  
7 NEA-AFT".

<b>ARTICLE II</b>
-------------------

<b>OBJECTIVES</b>
-------------------

8 This constitution is adopted for the following  
9 purposes:

- 10 1. To promote the best interests of schools,  
11 higher education, and health care institutions  
12 of the state and to expand and improve these  
13 facilities of the state;
- 14 2. To identify and promote practices and  
15 strategies that enhance student achievement  
16 in safe and supportive learning environments;
- 17 3. To advance the standards of professions  
18 whose members form an organizational  
19 affiliation with NYSUT;
- 20 4. To secure the conditions necessary to the  
21 greatest efficiency of our members and the  
22 institutions where they work;
- 23 5. To promote the economic, personal and  
24 occupational well-being and the welfare of  
25 our members;
- 26 6. To promote policies, programs and training that  
27 enhance participation by underrepresented  
28 minorities in organizational decision-making  
29 committees and governance bodies;
- 30 7. To promote mutual assistance and  
31 cooperation among the locals of NYSUT;

32 8. To promote the common aims and objectives  
33 of the American Federation of Teachers and  
34 the National Education Association;

35 9. To expose and fight all forms of racism and  
36 discrimination;

37 10. To support the principles of the American  
38 labor movement;

39 11. To support a free trade union movement  
40 throughout the world.

<b>ARTICLE III</b>
--------------------

<b>AFFILIATIONS</b>
---------------------

41 This organization shall affiliate with the  
42 American Federation of Teachers, those  
43 organizations mandated by the AFT's  
44 constitution/bylaws, and the National Education  
45 Association.

<b>ARTICLE IV</b>
-------------------

<b>LOCALS &amp; COUNCILS</b>
------------------------------

46 1. **Definition.**

- 47 a) The local unit, as recognized by the  
48 Board of Directors of NYSUT, shall be  
49 the group of members who hold  
50 collective bargaining rights. The Board  
51 of Directors may recognize other  
52 groups which do not hold collective  
53 bargaining rights as local units. Only  
54 one unit shall be recognized in any one  
55 employment jurisdiction, with the  
56 exception that locals not competing for  
57 the same category of membership may  
58 be recognized upon approval of the  
59 Board of Directors after consultation  
60 with the existing local unit(s).
- 61 b) The statewide student education  
62 organization shall be recognized as a  
63 local unit.



- c) NYSUT may form retiree councils. The jurisdiction and responsibilities of such councils shall be determined by the NYSUT Board of Directors.

## 2. Recognition.

- a) Locals and councils will be required to maintain unified membership with: (1) NYSUT; (2) the American Federation of Teachers and those organizations mandated by the constitution and bylaws of the American Federation of Teachers; and (3) where eligible, the NEA.
- b) Each local shall forward to NYSUT for each current member of a local which was affiliated with NYSUT as of August 31, 2006, or which became affiliated with NYSUT after September 1, 2006, not as a result of unification with NEA/NY, full per capita dues for NYSUT as specified in Article VI §1 and for AFT/NEA organization membership in accordance with the NEAFT national affiliate dues agreement and a sum equal to the per capita dues for all non-members paying an agency fee.
- c) Each local shall forward to NYSUT for each current member of a local affiliated with NEA/NY on or after April 1, 2005, per capita dues for NYSUT, as specified in Article VI §1, and for AFT/NEA organization membership in accordance with the NEAFT national affiliate dues agreement, and a sum equal thereto for all non-members paying an agency fee.
- d) Each local and each council constitution or bylaws shall contain a statement that the local/council will show no discrimination toward individuals on the basis of sex, religion, color, race, marital status, sexual orientation, gender identity, national or ethnic origin, age, disability or political activities and beliefs. Each such constitution or bylaws shall contain a statement that the local or council, as may be applicable, is affiliated with NYSUT, the AFT and the NEA.
- e) Additional procedures and criteria for recognition of locals and councils by NYSUT are prescribed in Bylaw A adopted by the Representative

Assembly and/or policies adopted by the Board of Directors.

- f) The Secretary-Treasurer shall file charges against any local which does not transmit its dues and equivalent agency fee amount in a timely manner. Any local, and any member thereof for whom a local fails to transmit dues within sixty (60) days after their payment by the member or their receipt by the local through an approved dues checkoff procedure, shall be considered in bad standing.
- g) The Board of Directors shall determine the penalty for any local's failure to transmit dues and/or equivalent agency fee amount in a timely manner. Such penalty may be termination of recognition or any lesser penalty the Board deems required under the circumstances.

(Reference Bylaw A )

## ARTICLE V MEMBERSHIP

Membership shall be obtained only through per capita payment by a local of the required dues amount for any category of membership. Only persons for whom the appropriate per capita dues have been paid shall be considered members of NYSUT.

There shall be the following membership categories: inservice, student, special and associate. Individuals will be required to maintain unified membership with the American Federation of Teachers, the NEA where eligible and those organizations mandated by the Constitution and Bylaws of NYSUT and the American Federation of Teachers.

No member shall be subject to discipline by NYSUT without due process.

(Reference Bylaw B )

## ARTICLE VI DUES

1. The dues for inservice members on a monthly<sup>±</sup> basis shall be the following, plus the current AFT/NEA per capita for

155 inservice membership in accordance with  
156 the NEAFT national affiliate dues  
157 agreement. Equivalent agency fee amounts  
158 should be collected on the same schedule.

159 <sup>\*</sup> Locals paid on a 10-month basis shall  
160 follow the 10-month salary schedule.  
161 Locals paid on a 12-month basis may follow  
162 the 12-month salary schedule. Unless  
163 otherwise specified, all dues changes  
164 commence on September 1.

	<u>Locals on</u>
	<u>10 - Month Schedule</u>
<u>Annual Salary</u>	
165 to \$8,499	\$4.73
166 \$8,500 to \$16,999	9.45
167 \$17,000 to \$25,499	18.90
168 \$25,500 to \$33,999	28.35
169 \$34,000 up	37.80

	<u>Locals on</u>
	<u>12 - Month Schedule</u>
<u>Annual Salary</u>	
173 to \$8,499	\$3.94
174 \$8,500 to \$16,999	7.88
175 \$17,000 to \$25,499	15.75
176 \$25,600 to \$33,999	23.63
177 \$34,000 up	31.50

181 2. Dues for Retired Members, Employees on  
182 Unpaid Leave, Laid-off Employees, NYSUT  
183 Staff, and Students shall be determined by  
184 the Board of Directors with the approval of  
185 the Representative Assembly.

186 3. All locals of NYSUT are obligated to  
187 transmit per capita dues and equivalent  
188 agency fee amount to NYSUT as long as  
189 NYSUT is obligated to pay the dues and  
190 equivalent agency fee amount to any national  
191 affiliate.

192 4. At-large members and affiliated locals  
193 within units where the bargaining rights  
194 have been won by other member  
195 organizations and where such other  
196 organizations have obtained an agency shop  
197 clause in the contract, shall pay per capita at  
198 one-fourth the regular rate whenever those  
199 at-large members of a local's members are  
200 required to pay agency fees to another  
201 organization.

202 5. The Board of Directors may set alternative  
203 dues and service structures which can be  
204 used for unique constituency groups which

205 are organized by the union. Such structures  
206 may be reviewed at the following  
207 Representative Assembly.

<b>ARTICLE VII</b>
<b>OFFICERS</b>

208 1. The officers of NYSUT shall be a President,  
209 Executive Vice President, Second Vice  
210 President and a Secretary-Treasurer. They  
211 shall be eligible, at the discretion of the  
212 Board of Directors, to serve NYSUT on a  
213 full-time basis.

214 2. **Eligibility.**

215 To be eligible to seek or hold office, the  
216 individual must have been a member in  
217 good standing of NYSUT or NEA/NY for at  
218 least two (2) years preceding the final date  
219 for nominations.

220 No person shall be a candidate for more  
221 than one NYSUT elective position at any  
222 Representative Assembly.

223 3. **Duties of the President.**

224 The President shall:

- 225 a) be the chief executive officer of  
226 NYSUT. It shall be her/his duty to  
227 administer all of the affairs of NYSUT  
228 and to execute policies of the  
229 organization as determined by the  
230 Representative Assembly and the Board  
231 of Directors.
- 232 b) preside at all meetings of the  
233 Representative Assembly, the Board of  
234 Directors and the Executive Committee.
- 235 c) act as chief spokesperson for NYSUT.
- 236 d) represent NYSUT at conventions of  
237 organizations with which it is affiliated.
- 238 e) appoint and establish the functions and  
239 duties of all committees with the  
240 approval of the Board of Directors.
- 241 f) call regular and special meetings of the  
242 Board of Directors and the Executive  
243 Committee.
- 244 g) call special meetings of the Repre-  
245 sentative Assembly upon the written  
246 petition of one-fifth (1/5) of the total  
247 number of the Representative Assembly  
248 registered at the last convention, or by



the majority vote of the Board of Directors.

h) appoint special assistants, with the approval of the Executive Committee, who will serve at her/his pleasure, manage her/his office, speak for and represent her/him, and who, if at time of appointment are inservice members of NYSUT, shall retain all rights pertaining thereto. Such appointments shall be limited to budgetary provisions for such employees. The special assistants shall continue to perform the same duties, as specified above, whenever an officer is serving in the President's absence.

i) provide for special elections to fill any vacancies in the position of Directors representing Election Districts. Or, when a significant need for additional representation on the Board of Directors arises between elections, the President, with the approval of a two-thirds vote of the Board of Directors, may add up to two (2) temporary seats to the Board of Directors until the next convention.

*(Reference Article IX. 7. q.)*

j) shall assign duties to the vice presidents.

k) fulfill such other duties as her/his office requires and as are consistent with this Constitution.

#### 4. Duties of the Vice Presidents.

The duties of the Vice Presidents, in order of rank as follows: Executive Vice President, Second Vice President, shall be to assume the duties and responsibilities of the President in her/his absence and to perform such other duties as the President may designate.

#### 5. Duties of the Secretary-Treasurer.

The duties of the Secretary-Treasurer shall be those usual to that office and to perform such other duties as may be required by the President or the Board of Directors.

#### 6. Nominations.

Candidates for officer positions shall be nominated pursuant to a schedule and procedures established by the Board of Directors.

#### 7. Elections.

Officers shall be elected on a roll call vote by a majority of the ballots cast at a Representative Assembly.

#### 8. Terms of Office.

Duly elected officers shall serve a three (3) year term commencing at the end of the annual Representative Assembly at which they are elected and shall serve until the conclusion of the third Representative Assembly after which they assume office.

## ARTICLE VIII REPRESENTATIVE ASSEMBLY

#### 1. Protocol.

a) The Assembly shall meet at least once annually at a time and place determined by the Board of Directors and at such other times as prescribed in this Constitution.

b) An exact record of the proceedings shall be made and shall be maintained at the headquarters of NYSUT.

c) On all roll call votes in the annual Assembly, each local represented shall be entitled to a number of votes equal to the membership as defined in Article VIII, §3(b). In the election of officers and directors, all voting shall be by roll call vote and each local represented shall be entitled to the number of votes equal to the membership as defined in Article VIII, §3(b). When a delegate leaves the Assembly, her/his place in the Assembly may be taken by an alternate, if any has been certified as provided in Article VIII, §2(a), and in the order as listed. No other transfer or substitution of voting rights shall be allowed.

d) The Representative Assembly will conduct all elections and roll-call votes by democratic processes that ensure that every member is represented; that preserve the individual integrity of every delegate's vote; and that hold delegates accountable to members. In NYSUT officer elections, the



governing bodies of local affiliates may direct whether their delegates will vote by secret ballot.

- e) Each local or retiree council delegation shall designate the Chair of its delegation.

(Reference Bylaw C.1 )

- f) The NYSUT Elections Committee shall have the authority to resolve any and all issues or disputes involving any election. In initially presenting an issue or dispute to the Elections Committee for a ruling, the complaining party(ies) shall promptly do so in writing. That written submission shall: (a) specify all of the provisions of the NYSUT Constitution and Bylaws and each provision of the Campaign and Election Procedures which are claimed to be violated, and (b) the facts supporting each such violation. The decision from the Elections Committee, responding to the complaint, shall be in writing. Any person aggrieved from a decision of the NYSUT Elections Committee who wishes to appeal the determination of the NYSUT Elections Committee must file, in writing, an appeal, within thirty (30) days (absent a showing of extenuating circumstances which shall be set forth in the written appeal) from the date the decision of the Elections Committee is received, to the American Federation of Teachers ("AFT") (American Federation of Teachers, Attn. Office of the Secretary-Treasurer, 555 New Jersey Ave. N.W., Washington, DC 20001) for processing and determination in accordance with the applicable procedures outlined in Article VI, Section 14 of the Constitution and Bylaws of the AFT. If no appeal is filed from the ruling of the NYSUT Elections Committee, or if an appeal is filed in an untimely fashion, the determination of the NYSUT Elections Committee shall be deemed final.

## 2. Composition.

The Assembly shall be composed of

- a) all duly registered representatives and alternates registered in the absence of local representatives.
- b) elected officers and members of the Board of Directors of NYSUT, the NYSUT Executive Director, and teacher members of the New York City and State Teacher Retirement Boards who are members of NYSUT.
- c) representatives elected by retiree councils, student NYSUT and such other units as the Board of Directors may recognize.
- d) representatives elected by councils of locals as recognized by the NYSUT Board of Directors.
- e) attendees of the NYSUT Representative Assembly who are not the elected officers of NYSUT, the elected members of the NYSUT Board of Directors, or the elected representatives, as they are described in subdivisions (a), (c) and (d), will hold no voting privileges at the Representative Assembly.

## 3. Representation.

- a) Representatives to the Representative Assembly shall be assigned to locals on a one-member/one-vote basis.
- b) Representation shall be based on the number of inservice members for whom a local has paid dues or an agency fee at a minimum of one-eighth dues level. Entitlement for locals is based on the average number of inservice members during the previous 12-month period.
- c) The conduct of elections for delegates and alternates to the Representative Assembly shall be consistent with the standards for elections developed under Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) ("Landrum-Griffin"). Representatives and/or alternates to the Representative Assembly shall be elected by a secret ballot vote by the members in good standing of the local unit. In no case shall either a representative or alternate be appointed. Members in good standing of each



442 local or retiree council must be given  
443 suitable opportunity to nominate  
444 candidates for the office of repre-  
445 sentative and/or alternate. Any  
446 candidate must be a member in good  
447 standing at the time of nomination.

448 Notice of the offices to be filled, the  
449 right to make nominations, and the  
450 time, place and proper form for the  
451 submission of nominations must be sent  
452 to members at their last known home  
453 address or be given a prominent place  
454 in the local publication and on bulletin  
455 boards. Written notice announcing the  
456 time and place of election of  
457 representatives and/or alternates must  
458 be mailed to all members at their last  
459 known home address at least fifteen  
460 (15) days prior to the election. Notice  
461 of nominations and of the election may  
462 be combined in one notice.

463 d) Each local or retiree council must send  
464 by certified mail or other receipted  
465 delivery service to the headquarters a  
466 certified list of all elected  
467 representatives and alternates not later  
468 than forty-five (45) days prior to the  
469 opening date of the Representative  
470 Assembly. Only persons reported on  
471 such lists will be eligible for  
472 credentials.

473 e) Representatives from retiree councils,  
474 student NYSUT, councils of locals, and  
475 other special units shall be elected by  
476 secret ballot in a manner and in  
477 proportions to be determined by the  
478 Board of Directors. Such  
479 representatives shall be entitled to all  
480 rights and privileges of a delegate.

481 f) Representatives and alternates must be  
482 members in good standing of NYSUT  
483 in order to maintain delegate status.

(Reference Bylaw C.2 )

#### 484 4. Powers and Duties.

485 a) Except for matters decided by refer-  
486 endum, final authority in the  
487 organization shall rest in the  
488 Representative Assembly. A matter  
489 decided by referendum may not be  
490 taken up again at a Representative  
491 Assembly before two years have  
492 elapsed.

- 493 b) Act on seating of contested  
494 representatives, in a manner consistent  
495 with law and the NYSUT constitution.
- 496 c) Adopt an Order of Business and Rules  
497 of Procedure for its operation.
- 498 d) Require and receive reports.
- 499 e) Elect officers, at-large Directors of  
500 NYSUT, and State Federation  
501 Delegates to the American Federation  
502 of Teachers Convention and Directors  
503 to the NEA Board of Directors. NEA  
504 Directors shall be elected by secret  
505 ballot and in accordance with the  
506 NYSUT Constitution, the Constitution  
507 and Bylaws of the NEA as well as  
508 established Campaign and Election  
509 Procedures.
- 510 f) Adopt a legislative program.
- 511 g) Act on amendments to the Constitution  
512 and Bylaws of NYSUT.
- 513 h) Establish general policies through  
514 resolutions and act on other business as  
515 necessary.
- 516 i) Meet upon call of the President following  
517 the filing of a written petition of one-third  
518 of the total number of the delegates seated  
519 at the last Representative Assembly to  
520 consider the removal of an elected officer  
521 or an at-large Director for cause.  
522 Representatives may remove the officer or  
523 at-large Director from office by a roll call  
524 vote requiring two-thirds of the ballots cast.

(Reference Bylaw C.3 )

<b>ARTICLE IX</b>
<b>BOARD OF DIRECTORS</b>

525 1. Protocol.

- 526 a) The Board will meet at least four (4)  
527 times each year, and when called (i) by  
528 petition of one-half of its members, or  
529 (ii) by a two-thirds vote of the  
530 Executive Committee.
- 531 b) In the event of unforeseen  
532 circumstances (*e.g.* Act of God,  
533 inclement weather, *etc.*) any of the four  
534 annual meetings of the Board of  
535 Directors may be conducted through  
536 electronic means by a two-thirds vote  
537 of the Board of Directors.

- c) Special meetings of the Board of Directors may be called to address matters where time is of the essence, and conducted through electronic means: (i) at the request of the President and by a two-thirds vote of the Board of Directors, or (ii) by petition of two-thirds of the members of the Board of Directors. Special meetings of the Board of Directors shall be in addition to the minimum four (4) regular meetings per year.
- d) Special rules of order consistent with democratic principles will be formulated for conducting electronic meetings.
- e) In addition to the minutes, an exact record of the proceedings shall be made and shall be maintained at the headquarters of NYSUT.
- f) The Board of Directors by a vote of one-third of its members may elect to cast its votes according to the following procedure:
  - i) Each director E.D.'s 1 through 46 shall cast votes equal to the active equivalent membership for her/his E.D.
  - ii) Each director from E.D.'s 51 through 53 shall cast votes equal to the delegate entitlement of retiree councils represented in his/her election district.
  - iii) Each director at-large shall cast votes equal to the total active equivalent membership divided by the number of districts.
  - iv) Each officer shall cast votes equal to the active equivalent membership divided by the number of districts.
  - v) The active equivalent membership used to determine all weighted votes will be that membership used to determine delegate representation at the previous Representative Assembly.

## 2. Composition.

- a) One (1) Director from each of the established geographic Election Districts.

- b) One (1) Director at-large from each established cluster of two or more geographic Election Districts.
- c) Elected officers of NYSUT.
- d) One Director for each of the established Election Districts for public and private institutions of higher education, and one Director from the established Election District comprising community colleges.
- e) One Director for each of the established Election Districts from the private elementary/secondary membership in New York State.
- f) One Director for each of the established Election Districts from the non-school district employee membership in New York State.
- g) One Director at-large from each established clustered Election District under subsections (d)-(f).
- h) One Director from each established retiree election district.
- i) Directors at-large, the number to be determined by the Board of Directors, for statewide constituency groups.
- j) The Executive Director shall be an *ex-officio* member of the Board.
- k) If not otherwise elected to a seat on the NYSUT Board of Directors, the senior NEA Director shall serve as an *ex officio* member of the NYSUT Board of Directors.
- l) An AFT Vice-President who is not otherwise elected to a seat on the NYSUT Board of Directors, shall, upon the recommendation of the President, serve as an *ex officio* member of the NYSUT Board of Directors.
- m) *Ex officio* members of the NYSUT Board of Directors shall serve without voting privileges.

## 3. Nominations.

Candidates for all Director positions shall be nominated pursuant to a schedule and procedures as previously established by the Board of Directors.



635 4. **Elections.**

- 636 a) Directors representing Election  
637 Districts shall be elected on a roll call  
638 vote by a majority of ballots cast by the  
639 representatives from their respective  
640 constituencies seated at the  
641 Representative Assembly.
- 642 b) In the event of a vacancy in the  
643 position of Election District Director,  
644 the President shall call a special  
645 election to elect a successor who shall  
646 serve for the remainder of the  
647 unexpired term. NYSUT members who  
648 were reported as the elected delegates  
649 to the most recently conducted  
650 Representative Assembly shall be  
651 eligible to vote in the election; a  
652 reported elected alternate to the most  
653 recently conducted Representative  
654 Assembly may vote in the absence of a  
655 delegate from the same local or council.
- 656 c) Directors at-large shall be elected on a  
657 roll call vote by a majority of the  
658 ballots cast by the Representative  
659 Assembly.

660 5. **Terms of Office.**

- 661 a) All Directors shall serve three (3) year  
662 terms commencing with the conclusion  
663 of the Assembly at which they are  
664 elected, and shall be elected  
665 concurrently with the NYSUT officers.  
666 Membership in good standing of  
667 NYSUT shall be a requisite for holding  
668 any elected office.

669 6. **Powers and Duties.**

670 The Board shall:

- 671 a) adopt an agenda for each meeting.
- 672 b) determine the time and place of the  
673 annual meeting of the Representative  
674 Assembly.
- 675 c) recommend an Order of Business and  
676 Rules of Procedure to the Representative  
677 Assembly.
- 678 d) recommend a legislative program to the  
679 Representative Assembly.
- 680 e) establish and adjust geographic director  
681 districts in accordance with the concept

682 of one-member/one-vote and to cluster  
683 contiguous and non-geographic districts.

(Reference Bylaw D )

- 684 f) establish the number of directors at-large  
685 for statewide constituency groups.
- 686 g) appoint an Executive Director.
- 687 h) define the duties of the Executive  
688 Director.
- 689 i) act upon management appointments as  
690 recommended by the President.
- 691 j) define employee units, recognize  
692 appropriate bargaining organization(s)  
693 and enter into written bargaining  
694 agreements with recognized employee  
695 organization(s).
- 696 k) implement policies established by the  
697 Representative Assembly.
- 698 l) establish NYSUT policy between  
699 Representative Assemblies.
- 700 m) approve an annual budget.
- 701 n) act upon extraordinary expenditures  
702 which require modification of the budget.
- 703 o) fill all officer and director at-large  
704 vacancies as may occur.
- 705 p) interpret the Constitution.
- 706 q) approve, by a two-thirds vote, the  
707 recommendation of the President to add  
708 up to two (2) temporary seats to the  
709 Board of Directors until the next  
710 convention when a significant need for  
711 additional representation on the Board of  
712 Directors arises between elections.

(Reference Article VII. 3. i.)

<b>ARTICLE X</b>
<b>EXECUTIVE COMMITTEE</b>

713 1. **Procedures.**

714 The Executive Committee shall meet  
715 monthly during the school year and at other  
716 times as called (i) by the President or (ii) by  
717 petition of one-half of its members.

718 2. **Composition.**

- 719 a) Officers of NYSUT.
- 720 b) Fifteen members who shall be elected  
721 by and from the Board of Directors.

722 c) The Executive Director shall be an *ex-*  
723 *officio* member of the Committee,  
724 without voting privileges.

725 3. **Powers and Duties.**

- 726 a) Employ an Executive Director and  
727 other managerial personnel with the  
728 approval of the Board of Directors.
- 729 b) Prepare and make recommendations to  
730 the Board of Directors on policy  
731 matters for its consideration.
- 732 c) Act on policy matters in place of the  
733 Board of Directors under emergency  
734 conditions.

735 4. **Elections and Terms of Office.**

- 736 a) Director members of the Executive  
737 Committee shall be elected by a  
738 majority vote of the Board of Directors.
- 739 b) Their terms of office on the Executive  
740 Committee shall be coterminous with  
741 their term of office as a Director.

<b>ARTICLE XI</b>
<b>REFERENDA</b>

- 742 1. The highest level of governance in NYSUT  
743 shall be the referendum of the entire  
744 membership. Positions or policies  
745 established by referendum shall not be  
746 subject to reversal or modification by any  
747 NYSUT governing body or by a subsequent  
748 referendum for a period of at least two (2) years.
- 749 2. A referendum shall be held by
- 750 a) order of a majority of the Represen-  
751 tative Assembly, or
- 752 b) order of a majority of the Board of  
753 Directors, or
- 754 c) petition of at least ten (10) percent of  
755 the inservice members drawn from no  
756 fewer than twenty-five (25) locals.
- 757 3. Matters not subject to referendum are
- 758 a) employment, assignment, promotion,  
759 discharge or compensation of staff.
- 760 b) dues of NYSUT, NEA or AFT.
- 761 c) amendment and/or interpretation of the  
762 constitution and bylaws.
- 763 d) programs requiring a budgetary  
764 expenditure of funds.

- 765 e) powers specifically assigned to other  
766 bodies by this Constitution.

(Reference Bylaw E)

<b>ARTICLE XII</b>
<b>AMENDMENTS</b>

- 767 1. An amendment to the Constitution or  
768 Bylaws may be proposed by (i) the Board of  
769 Directors or (ii) no fewer than one hundred  
770 (100) members drawn from at least five (5)  
771 Election Districts.
- 772 2. In order to be considered for adoption, a  
773 proposed amendment to the Constitution or  
774 Bylaws shall be submitted in writing to the  
775 Board of Directors at least sixty (60) days  
776 prior to the Representative Assembly at  
777 which it is to be considered.
- 778 3. A proposed amendment to the Constitution  
779 or Bylaws shall be published in an official  
780 publication of NYSUT at least thirty (30)  
781 days prior to the Representative Assembly at  
782 which it is to be considered.
- 783 4. Copies of a proposed amendment to the  
784 Constitution or Bylaws to be acted upon  
785 shall be available for each member of the  
786 Representative Assembly at least three (3)  
787 hours prior to vote upon the amendment.
- 788 5. This Constitution may be amended by a  
789 two-thirds vote and Bylaws by a simple  
790 majority vote of the members of the  
791 Representative Assembly present and  
792 voting, provided that an affirmative vote  
793 shall represent at least a majority of the  
794 registered members of the Representative  
795 Assembly.
- 796 6. In adopting any amendments to this  
797 Constitution or Bylaws, the Representative  
798 Assembly shall be deemed to have author-  
799 ized the officers to take such legal or  
800 technical actions as may be necessary to  
801 make the required changes in this  
802 Constitution or Bylaws.





---

# BYLAWS

## OF THE

# NEW YORK STATE UNITED TEACHERS

---

<b>A. LOCALS &amp; COUNCILS</b>
---------------------------------

(Reference Article IV)
------------------------

1. **Recognition.**

- a) Locals and councils must submit their constitution or bylaws to the Board of Directors. Such documents shall contain provision for the election of officers, the composition and election of an executive committee, the election of representatives to the Representative Assembly of NYSUT, the AFT and NEA Conventions, amount of dues and protection of the rights of their members and procedures for amending their constitution or bylaws. Each local and council constitution or bylaws shall further contain a statement that the local or council will show no discrimination toward individuals on the basis of sex, religion, color, race, marital status, sexual orientation, gender identity, national or ethnic origin, age, disability, or political activities and beliefs.
- b) Each such constitution or bylaws shall contain a statement that the local or council, as may be applicable, shall be affiliated with NYSUT, the AFT and the NEA.
- c) Each local and council shall annually conduct a financial audit which shall be presented to both the local or council governing body and the members.
- d) All local and council officers shall be elected with open nominations and by secret ballot. The principle of one-person, one-vote shall apply to all local/council elections. Generally

recognized procedures for conducting a democratic election shall apply to such elections. Advanced notification of all qualifications for elected office shall be provided to the membership. No union funds or employer funds shall be utilized in any local election. A local or council may expend funds provided such expenditure is consistent with the standards applicable to a union election which is subject to and governed by Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) ("Landrum-Griffin").

- e) NYSUT may periodically solicit from a local or council sufficient information to enable NYSUT to verify a local's or council's compliance with the requirements of this Bylaw A.
- f) Locals and councils must submit annually to the Board of Directors notification of elected leadership and copies of all materials filed in compliance with law.
- g) Following notice to the local, the filing of written charges and a hearing at which the local shall have the right to be represented before the Board, recognition of a local may be denied or terminated for cause by a two-thirds vote of the Board of Directors. Except in the case of non-payment of dues or equivalent agency fee amount, the local shall have the right to appeal the decision of the Board of Directors to the next subsequent Representative Assembly. In no event shall any local be placed in receivership or trusteeship by NYSUT.

## B. MEMBERSHIP

(Reference Article V)

### 76 1. Inservice.

77 Inservice membership in NYSUT shall be  
78 open to any person, except chief school  
79 administrators, who engages in the practice  
80 of teaching, health care, or who performs  
81 other duties in New York State school  
82 districts or other public or private  
83 institutions and, further, who is a member in  
84 good standing of the AFT, the NEA (where  
85 eligible), and a NYSUT recognized local for  
86 which he/she is eligible.

87 Inservice membership shall also be open to  
88 any person employed in a school related  
89 professional ("SRP")/educational support  
90 professional ("ESP") position. This shall  
91 include but not be limited to those  
92 SRPs/ESPs employed as teaching assistants,  
93 teacher aides, classroom monitors,  
94 secretaries, office clerks, public library  
95 workers, all school bus drivers, and those  
96 employed in food service, custodial,  
97 maintenance and transportation positions.

98 Inservice membership shall be available  
99 only through a NYSUT recognized local, if  
100 one exists.

### 101 2. Student.

102 Student membership shall be open to any  
103 person preparing for the education or health  
104 care profession in any duly accredited higher  
105 education institution in New York State and,  
106 further, who is a member in good standing  
107 of the local student education organization  
108 for which he is eligible. Such membership  
109 shall be available only through said local if  
110 one exists.

### 111 3. Special Membership.

#### 112 a) Through Recognized Locals.

113 Locals may establish special categories  
114 of members which may consist of part-  
115 time employees, per diem substitute  
116 employees, retirees who were inservice  
117 members of the local, and employees  
118 on unpaid leave, laid off employees  
119 previously employed in the  
120 employment jurisdiction not currently  
121 working and who are on a preferred  
122 recall list or any other employee who is

123 eligible for membership whose salary  
124 is less than the basic teacher's salary.

#### 125 b) Through Recognized Councils.

126 i) Retirees who are entitled to pre-  
127 paid lifetime NYSUT and AFT  
128 membership and who are not  
129 entitled to membership in their  
130 prior local will be members  
131 through their active election  
132 district council.

133 ii) Retirees who were members of  
134 TRIF (Teacher Retirees in Florida)  
135 prior to September 1, 1991, need  
136 not rejoin their former locals or  
137 election district council.

138 iii) The Board of Directors may  
139 develop a plan to permit retirees  
140 who permanently and significantly  
141 relocate to change their council  
142 membership. Such change shall  
143 not include a change of local.

144 iv) Members who were retired  
145 members of locals prior to  
146 September 1, 1991 must maintain  
147 local membership.

148 v) Individuals who have purchased  
149 NEA/NY Life Retired  
150 Membership prior to September 1,  
151 2006 will be entitled to full rights  
152 of participation as retired members  
153 in NYSUT.

#### 154 c) Independent - This Category is open to 155 NYSUT Staff.

### 156 4. Associate Membership.

#### 157 a) Individual.

158 In jurisdictions where there is no local,  
159 employees may be admitted as  
160 associate NYSUT members without  
161 NYSUT voting rights but with rights to  
162 participate in benefit programs such as  
163 insurance, travel, and discount buying  
164 programs. The dues for associate  
165 NYSUT members shall be determined  
166 by the NYSUT Board of Directors.

#### 167 b) Unique Constituency Groups.

168 Unique Constituency Groups, which  
169 are not locals, shall be afforded for  
170 their members and provided specific



services and benefits as determined by the Board of Directors. Such membership will not include voting rights.

5. Due Process

Following notice to the member, the filing of written charges and a hearing at which the member shall have the right to be represented before the Board or an appointed committee thereof, membership in NYSUT may be denied, suspended or terminated for cause by a two-thirds vote of the Board of Directors. Except in the case of non-payment of dues, the member shall have the right to appeal the decision of the Board of Directors to the next subsequent Representative Assembly.

## C. REPRESENTATIVE ASSEMBLY

1. Procedures.

(Reference Article VIII.1 )

- a) A parliamentarian appointed by the President, shall be in attendance at all sessions of the Assembly.
- b) The votes of a local or retiree council shall be divided evenly among the delegates present at the time of voting. Votes shall be evenly divided to four (4) decimal positions by the Elections Committee at the time of tabulation. Election results will be reported by rounding the results to zero decimal positions.
- c) Except as otherwise provided for in this Constitution, roll call votes on any matter before the Assembly shall be ordered by at least a one-third vote of the representatives present supporting such roll call vote.

2. Representation.

(Reference Article VIII.3 )

- a) Locals shall receive one representative per one hundred (100) members or major fraction thereof; but any local with fewer than fifty-one (51) members

will be entitled to one (1) representative.

- b) The number of representatives shall be based on a twelve (12) month membership period ending no more than ninety (90) or less than ten (10) days prior to the Representative Assembly – the exact date to be determined by the Board of Directors.
- c) Each established Retiree Council shall be entitled to three (3) delegates.
- d) Each candidate for representative or alternate must be permitted to have as many observers as necessary at the polls and the counting of the ballots. The results of the election must be published and all election records, including ballots, must be preserved for a period of one (1) year by the election officials designated in the local unit's constitution and bylaws or by the secretary of such local unit if no other official is designated.

3. Proceedings for the Removal of Officers and At-Large Directors.

(Reference Article VIII.4i )

- a) In any meeting of the Representative Assembly called for considering the removal of an officer or at-large Director, such officer or at-large Director shall have the right to be heard or represented on her/his own behalf following timely notice of said meeting.

## D. BOARD OF DIRECTORS

(Reference Article IX.6e )

1. Powers and Duties.

- a) No local shall be assigned to more than one election district without its consent. Where a local is entitled to more than one director, its directors shall be elected by representatives and from election districts established within that local. When redistricting is requested, consultation will take place between the local(s) involved and the Redistricting

255 Committee prior to a vote by the Board  
256 of Directors.

## **E. REFERENDA**

(Reference Article XI)

- 257 1. Procedures for a referendum shall be:
- 258 a) After receipt of order or request for  
259 referendum, it shall be the duty of the  
260 President to transmit the question to be  
261 voted on to the locals within two (2)  
262 weeks of its receipt by him/her.  
263 Following this, there shall be a period  
264 of six (6) weeks during which the  
265 proponents and opponents shall be  
266 given the opportunity to debate the  
267 issue through the regular channels of  
268 NYSUT, at the end of which time the  
269 President shall send to the individual  
270 members of all locals in good standing  
271 ballots upon which the members shall  
272 cast their votes and shall also send to  
273 members at-large ballots upon which  
274 members at-large shall also cast their  
275 votes.
- 276 b) The President shall rent a postal deposit  
277 box. The individual members shall  
278 mail their ballots to the postal box. The  
279 closing date of the referendum shall be  
280 thirty (30) days from the date ballots  
281 are mailed from the NYSUT office. At  
282 the end of thirty (30) days, the  
283 President, or her/his representative,  
284 accompanied by at least two (2)  
285 representatives of each side of the issue  
286 on the ballot, shall remove the ballots  
287 and cause them to be counted. Ballots  
288 received after the opening of the postal  
289 box shall not be counted. In the alter-  
290 native, the President, with the consent  
291 of the Board of Directors, may engage  
292 an independent agency to conduct the  
293 ballots and to count the votes.
- 294 c) The President shall notify the locals of  
295 the results of the referendum no later  
296 than two weeks following the receipt of  
297 the count. He/she shall also publish the  
298 results in an official publication of  
299 NYSUT.

## **F. QUORUM**

- 300 For the purpose of the Representative  
301 Assembly, a quorum shall be defined as one  
302 more than one-half of the registered  
303 attendees. For meetings of the Executive  
304 Committee and Board of Directors, a  
305 quorum shall be defined as one more than  
306 half of the total members of such bodies.

## **G. PARLIAMENTARY PROCEDURE**

- 307 Meetings of all duly constituted bodies of  
308 this organization shall be governed by the most  
309 recent edition of Robert's Rules of Order, Newly  
310 Revised, except as otherwise provided in this  
311 Constitution or Bylaws.

## **H. FISCAL YEAR, RECORDS AND REPORTS**

- 312 1. The fiscal year of this organization shall  
313 begin September 1 and end August 31.
- 314 2. NYSUT shall maintain all records and  
315 reports required by law.

## **I. PRINCIPAL OFFICE**

- 316 The principal office of this organization  
317 shall be located in the City of Albany, New York,  
318 or its environs.

## **J. SPECIAL RULES OF ORDER FOR REPRESENTATIVE ASSEMBLY**

- 319 Roll call procedures at a Representative  
320 Assembly shall be as follows:
- 321 1. When a roll call vote has been ordered, the  
322 presiding officer shall at once call for the  
323 next item on the agenda, action on the  
324 pending motion being automatically post-  
325 poned pending the tabulation of the results  
326 of the roll call vote. No debate, amendment,  
327 or other motion affecting the question on  
328 which the roll call vote was ordered may be  
329 made after a roll call has been ordered.



- 330 2. The ballots shall be distributed to the  
331 ranking delegates of each delegation under  
332 the direction of the presiding officer of the  
333 Credentials Committee. (These ballots shall  
334 be prepared by the President or her/his  
335 designee.)
- 336 3. Each delegate voting shall enter on her/his  
337 ballot how she/he is voting and sign the  
338 ballot, and this record shall be included in  
339 the Convention proceedings.
- 340 4. The ranking delegate will collect the ballots  
341 from the delegates of her/his local or retiree  
342 council and return them to the Credentials  
343 Committee. No vote shall be accepted later  
344 than 1½ hours from the time voting  
345 commences unless the Credentials  
346 Committee extends the time due to  
347 extenuating circumstances.
- 348 5. The results of the roll call shall be reported  
349 by the Chair of the Convention or her/his  
350 designee from the Credentials Committee to

- 351 the assembly immediately upon completion  
352 of the tabulation according to the following  
353 procedure:
- 354 a) The total vote shall be read.
- 355 b) If any five delegates request it, the vote  
356 by local shall be read.
- 357 c) If any delegate challenges the vote of  
358 her/his local or retiree council, the roll  
359 of delegates from that local or retiree  
360 council shall be read, and each delegate  
361 shall rise as her/his name is called, and  
362 announce her/his vote.
- 363 d) The report on the roll call shall then be  
364 revised to agree with the oral vote just  
365 taken.
- 366 e) A copy of the roll call vote shall be  
367 posted showing the vote of each  
368 delegate, and shall remain posted until  
369 the end of the Assembly.

# NYSUT ELECTED LEADERSHIP

## OFFICERS

Andrew Pallotta, *President\**  
Jolene T. DiBrango, *Executive Vice President\**  
Ronald R. Gross, *Second Vice President\**  
J. Philippe Abraham, *Secretary-Treasurer\**

## AT-LARGE DIRECTORS

Shelvy Young Abrams* (SRP)	Leo Gordon	Deborah Paulin (SRP)
Cordelia Anthony*	Anne Goldman (Health Care)	Debra Penny
Karen Arthmann (SRP)	Matthew Haynes	Stephen Rechner (Pvt. Hi Ed)
Andrew Bogey	Janella Hinds	Angie Rivera (SRP)
James Davis*	Cheryl Hughes	Samantha Rosado-Ciriello*
Thomas Brown	Frederick Kowal*	Sean Rotkowitz
Michele Bushey	Pamela Malone (Higher Ed.)	Andrew Sako* (Community Colleges)
Joseph Cantafio*	Michael Sill	Nancy Sanders
Nicole Capsello	Florence McCue	Andrea Vasquez (Higher Ed.)
Sandra Carner-Shafran* (SRP)	Maria Pacheco	Ronald Verderber
Brian Ebertz		

## ELECTION DISTRICT DIRECTORS

1 Peter Stuhlmiller	17 Tomia Smith	33 Cassie Prugh
2 Michelle Licht	18 Frederic Stark	34 Richard Mantell
3 Joseph Najuch	19 Gregory Perles	35 LeRoy Barr*
4 Kevin Mole	20 John Mansfield	37 Felicia Wharton
5 Adam Urbanski*	21 Kevin Coyne*	38 Penny Lewiis
6 Andrew Jordan	22 Kevin Toolan	39 Roberta Elins
7 John Kuryla	23 Laura Spencer	40 Jamie Dangler
8 David Chizzonite	24 Karen Alford	41 Rowena Blackman-Stroud
9 Jeanette Stapley	25 Carl Cambria	42 Thomas Tucker
10 Laura Franz*	26 Mary Vaccaro*	44 Philip Rumore
11 Joseph Herringshaw	27 Amy Arundell	45 Adam Piasecki
12 Juliet Benaquisto	28 Mary Jo Ginese	46 Dora Leland*
13 Melissa Servant	29 Mary Atkinson	51 Loretta Donlon
14 Sparrow Tobin	30 Anthony Harmon	52 VACANT
15 Sean Kennedy	31 Michael Mulgrew*	53 Thomas Murphy
16 Jeffrey Yonkers	32 Elizabeth Perez	

### *Honorary Members of NYSUT Board of Directors*

Thomas Y. Hobart, Jr., President Emeritus, Alan B. Lubin, Executive Vice President Emeritus, and  
Antonia Cortese, Board Member Emerita

### *Ex-Officio Member of NYSUT Board of Directors*

Melinda Person, *NYSUT Executive Director & Political Director\**

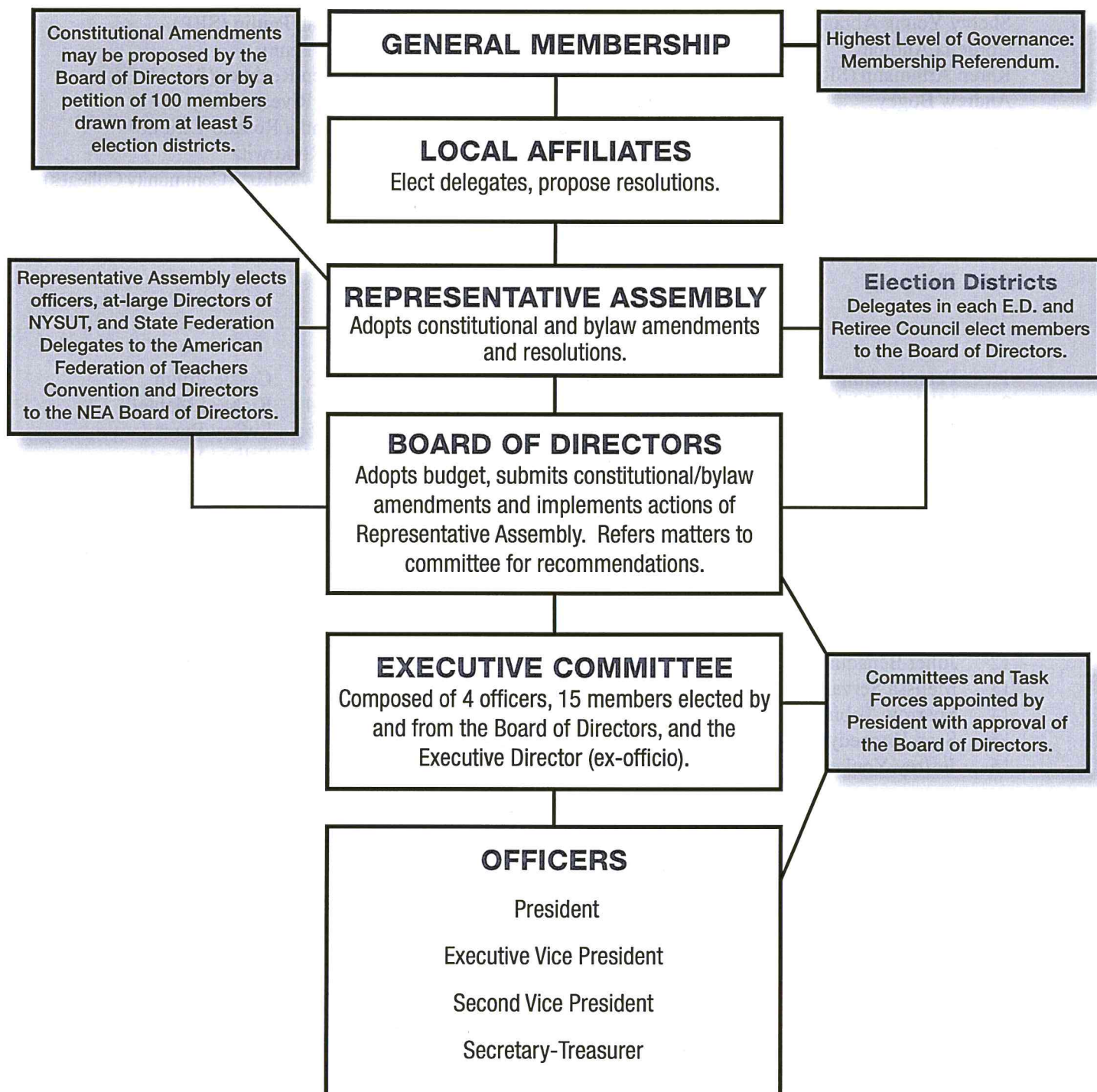
### *NEA Board Members - NYSUT Board of Directors*

Serena Kotch – Senior NEA Board Member; Thomas McMahon – NEA Board Member  
Sue Raichilson and Dora Leland – Alternate NEA Board Members

*\*The NYSUT Executive Committee includes all those indicated by an asterisk.*



# GOVERNANCE STRUCTURE





---

## NYSUT Officers

---



Andrew Pallotta  
*President*



Jolene T. DiBrango  
*Executive Vice President*



Ron Gross  
*Second Vice President*



J. Philippe Abraham  
*Secretary-Treasurer*



**Representing more than 600,000  
professionals in education,  
human services and health care**

800 Troy-Schenectady Road, Latham, NY 12110-2455  
518-213-6000 • 800-342-9810

***NYSUT.ORG***

New York State United Teachers  
Affiliated with AFT • NEA • AFL-CIO

