

Constitution and By-Laws April 9, 2015 Draft

CONSTITUTION AND CUPE 459 BY-LAWS

LOCAL 459, CANADIAN UNION OF PUBLIC EMPLOYEES

DECLARATION

Whereas, without laws and regulations, no body of people can subsist, either with comfort to themselves or deputation among others;

And

Whereas, holding this as a fundamental principle of freedom and progress, and in order to promote the decorum and harmony in our association which is so necessary to the lasting welfare of any institution;

THEREFORE, we the Members of the aforesaid association have agreed to and adopted clause by clause, the following **Constitution and CUPE 459** By-laws for the good government of the association. It must be noted that no **CUPE 459 By-law by law in this Constitution** is to conflict with that **the National Constitution** of our National governing Body.

ARTICLE 1 – NAME

The name of the Local shall be "Local 459, Canadian Union of Public Employees."

ARTICLE 2 – OBJECTS

The objects of this Union shall be safeguarding and developing the economic, social and educational interest of its Members, particularly the negotiation and application of collective agreements; and supporting the objects of Canadian Union of Public Employees (CUPE) as set out in ARTICLE II of its Constitution (**National Constitution**).

This Constitution shall at no time The National Constitution of the Canadian Union of Public Employees is an integral part of these By-laws and at no time shall these By-laws be used to supersede the National Constitution of the Canadian Union of Public Employees.

ARTICLE 3 – DEFINITIONS

(a) Wherever the word "Departments" is used it shall refer to the five departments as follows:

Clerical Department – consists of all Secretaries, Clerical Clerks, Receptionists, Library Assistants, Science Assistants, Work Experience Co-ordinators, **Strong Start and Early Learning Co-ordinators, Central Call-in Co-ordinators, School Meals Co-ordinators and Workers, Home Economics Assistants, Kitchen Cook-Teachers, Noon-Hour Supervision Assistants and After School Care Co-ordinators and Workers**

Maintenance Department – consists of Trades, Grounds, Equipment Technicians, **Information Technicians** and any other maintenance personnel working from facilities and is not from the Transportation Department.

Transportation Department – consists of the Vehicle Technicians, Bus Drivers and Crossing-Guards.

Custodial Department – consists of all Custodians and Activity Supervisors.

Education Assistant Department – consists of Education Assistants, Interpreters, Youth and Family Counsellors, First Nations Assistants **Aboriginal Education Support Workers, Wrap-around Co-ordinators, Early Childhood Educators, Communication Facilitators and Interveners.**

Commented [LS1]: We found that the use of the term "Constitution" referring to this document and the National Constitution caused confusion. We have eliminated this confusion by referring to this document as the By-laws. The usage of the term By-laws to refer to this document corresponds to the usage in the National Constitution.

Commented [LS2]: In his letter of October 14, 2014, the National President asked several times for us to include text from the National Constitution in these By-laws. We hesitate to do this because it means that every time the National Convention changes those particular clauses of the National Constitution, we must then go through this whole process again. We changed this clause to make it clear that the National Constitution is part of these By-laws so that changes in the National Constitution automatically change the local's By-laws.

Commented [LS3]: We updated these lists from the latest list of job titles.

ARTICLE 4 – MEMBERSHIP

Any workers employed within the jurisdiction covered by the Charter of the Union shall be eligible for Membership. Members must make application on the regular form provided for that purpose, and sign their name on it.

The application for Membership shall be forwarded to the Secretary-Treasurer of School District No. 62 (Sooke).

ARTICLE 5 – OBLIGATION

All candidates **for Membership** shall agree to the following obligation:

"I promise to support and obey the Constitution of this Union, to work to improve the economic and social conditions of other **members** **Members** and other workers, to defend and work to improve the democratic rights and liberties of workers and that I will not purposely or knowingly harm or assist in harming another **member** **Member** of the Union."

ARTICLE 6 – NOMINATION, AND ELECTION OF OFFICERS AND TERMS OF OFFICE

- (a) The elections shall take place at the regular Membership meeting in the month of December.
- (b) At the Membership meeting in October, the President shall appoint a Nominating Committee. The Committee shall include one (1) Member from each department. They shall have full responsibility for seeing that at least one candidate be available for each office. The Nominating Committee will present a slate of candidates at the November Membership meeting. The Committee shall treat all information submitted to it in connection with its responsibilities as confidential.
- (c) Addition nominations shall be accepted at the December Membership meeting provided the Member is in attendance at the meeting or has allowed to be filed with the nominating committee their consent in writing duly witnessed by another Member.
- (d) The President and/or Executive Board will make arrangements for and impartial chairperson and two scrutineers who shall be responsible for issuing, collecting, and counting ballots.
- (e) Members will participate in the departmental election of the department in which they hold a posted position. Members who hold a posted position in more than one department will participate in the departmental election of the department in which they hold the posted position in which they work the most hours. An on call position is deemed to be a posted position.
- (f) **Unless otherwise provided, the term of office of Officers and Committee Members shall be for one year beginning on January 1st and ending on December 31st. There is no limit to the number of terms Officers and Committee Members can serve in a position. Officers and Committee Members can succeed themselves.**

ARTICLE 7 – EXECUTIVE OFFICERS AND EXECUTIVE BOARD

- (a) Executive Officers are:

President
1st Vice-President
2nd Vice-President
Recording Secretary
Corresponding Secretary
Secretary-Treasurer
Recording Secretary
Corresponding Secretary
Chief Shop Steward

Commented [LS4]: In his letter of October 14, 2014, the National President noted that the By-laws did "not include all the important information pertaining to the nomination, election, and installation of Officers." We added this in response to this observation.

Commented [LS5]: This rearrangement and the similar rearrangement made in Article 8 is so that the By-laws align more closely with the National Constitution. The President, Vice President, Recording Secretary and the Secretary Treasurer (in that order) are the Executive Officers prescribed in the National Constitution so we place them first in the list of Executive Officers. We shifted the duty to chair the meetings in the absence of the President and Vice Presidents to the Secretary Treasurer from the Corresponding Secretary to reflect the fact that Nationally and Provincially, the Secretary Treasurer serves in this role and the Secretary Treasurers have no other duties at the meetings other than to present their reports. We did not assign this role to the Recording Secretary as that Officer is busy at the meetings keeping the minutes. Similarly, Corresponding Secretary replaces the Recording Secretary.

Diversity Representative
Shop Stewards

(b) Executive Officers shall be elected for a one (1) year term

(c) Executive Board

The Executive Board shall consist of the Executive Officers.

The Shop Stewards shall have voice but no vote at the Executive Board Meeting.

A majority of the voting Members of the Executive Board shall constitute a quorum.

The Executive Board shall hold title to any real estate and/or any other assets of the Union as Trustees for the Local. The Executive Board shall have no right to convey, sell or encumber any real estate or other assets of the Local without giving notice of motion at least seven (7) days at a previous meeting, or at least sixty (60) days written notice to the Members, submitting the motion to a Membership meeting and having such motion approved.

The Executive Board shall meet at least once a month during the school term, prior to the Membership meeting to receive, discuss and debate all correspondence and any other general information which may be received. The Executive Board shall report to the Membership meeting and make whatever recommendations it considers necessary for the functioning of the Union.

The Executive Board shall do the work delegated to it by the Membership, and deal with all grievances of ~~members~~ **Members** submitted to it in the reports of the Grievance Committee. The Executive Board shall be held responsible for the proper and effective functioning of the Grievance Committee.

The Executive Board is empowered to authorize expenditures for charitable donations in accordance with previous experience.

**The Executive Board shall prepare an Expense Policy for approval by the Membership.
The Membership shall amend this policy only on the recommendation of the Executive Board.**

Any Executive Board member wishing to be absent from a Regular or Membership meeting must get prior approval from the President. Such approval shall not be unduly withheld. Should any ~~officer~~ **Officer** fail to answer roll call for three (3) consecutive meetings without having good and sufficient cause, that office shall be declared vacant and the position filled at the following meeting. This election shall be to complete the unexpired term of office.

It shall be the responsibility of the Executive Board to provide a suitable place to hold meetings; and it shall see that the Officers of the Local are supplied with the proper facilities and supplies for the proper performance of their duties.

ARTICLE 8 – DUTIES OF OFFICERS

Section (a) – President

In addition to the duties prescribed in the National Constitution the The President shall:

Enforce the CUPE National Constitution and these **CUPE 459** By-laws; decide all question of order and procedure (subject always to appeal of the Membership); and, in the case of a tie vote in any matter, have the right to cast the deciding vote.

Assign to the First Vice-President and the Second-Vice President duties and responsibilities which will assist in the proper functioning of the Union;

Preside at all meetings of the Local Union; sign cheques on behalf of the Union only as authorised and ordered by the Membership or the Executive Board; appoint all committees not

Commented [LS6]: This is also in response to the problem of having an Executive Officer serve two Executive positions. While the Chief Shop Steward speaks for all the Shop Stewards at the Executive Board Meeting, we thought that the Shop Stewards are in the best position to bring the issues of each department to the attention of the Executive. This also allows the Shop Stewards to be independent of the Executive Board allowing them to freely represent a Member before the Executive Board and the General Membership without the constraints of Executive solidarity.

Commented [LS7]: We added this clause at the request of our Trustees. While recognizing that it was not wise to place the contents of the Expense Policy in the By-laws, they thought it necessary for the By-laws to refer to the Expense Policy to ensure that an Expense Policy existed.

Commented [LS8]: The National Constitution requires a President, Vice -President, Recording Secretary, Secretary-Treasurer and Trustees. The National President in his letter of October 14, 2014, suggested several times that the Bylaws did not include all the duties and responsibilities that each of these Officers must fulfill. While this is true, we disagreed with his suggestion that we insert the wording of the National Constitution in the By-laws. We do not want to go through this exercise every time the National Convention chooses to change the wording of the particular clauses of the National Constitution that address the responsibilities of these Executive Officers. Instead, we chose to amend Article 2 and add this sentence at the beginning of Sections (a, b, c, e, f and j.) In doing so the By-laws will remind these Executive Officers that they may have other duties and responsibilities given them in the National Constitution that may not be mentioned in the CUPE 459 By-laws.

Commented [LS9]: This removes the potential for the chairperson to be able to cast two votes which we deemed undemocratic. We could have given the chairperson a vote only in the case of a tie but this denies them their democratic right to have a voice and vote in all cases. This means that a tie vote is a defeat of the motion, not an indication of indecision. CUPE National suggest that in the event of a tie potential series of revotes should occur. We disagreed and thought it best to fully respect the language about the number of votes needed for the passage of a motion.

otherwise ordered; and transact such other business that may pertain to the office of President and which may be necessary for the proper functioning of the Local Union.

Be an Ex Officio Member of all committees;

On the termination of office, the President shall surrender all correspondence, files and other property of the Union to the successor.

Section (b) - First Vice-President

In addition to the duties prescribed in the National Constitution the The First Vice-President shall:

Perform the duties of the President in the absence of the President.

In the case of the resignation or death of the President, the First-Vice President shall become President for the remainder of the President's term of office;

Preside when called upon by the President and at times when the President shall be temporarily unable to discharge their duties;

Preside at the Executive Board Meetings;

Sign cheques on behalf of the Union only as authorised and ordered by the Membership or the Executive Board;

Assist the President with all regular duties of that position for the proper functioning of the Union;

On the termination of office, the First Vice-President shall surrender all correspondence, files and other property of the Union to the successor.

Section (c) - Second Vice-President

In addition to the duties prescribed in the National Constitution the The Second Vice-President shall:

Perform the duties of the First Vice-President in the absence of that Officer. In the event that both President and First Vice-President are unable to fulfil the duties of their office, the Second Vice-President shall assume their obligations;

Sign cheques on behalf of the Union only as authorised and ordered by the Membership or the Executive Board;

Assist the President and the First Vice-President with all regular duties of these positions as required for the proper functioning of the Union;

In the case of the resignation or death of the President or First Vice-President, the Second Vice-President shall become the First Vice-President for the remainder of the First Vice-President's term of office. An election shall then be held for the position of Second Vice-President for the remainder of the Second Vice-President's term of office;

On termination of office, surrender to the duly elected successor all correspondence, files and other property of the Union.

Section (d) - Recording Secretary

In addition to the duties prescribed in the National Constitution the The Recording Secretary shall:

Keep a full and correct and impartial record of the proceedings of each meeting of the Local and Executive Board in minute books which shall be supplied for that purpose; and these minutes shall be confirmed at the next meeting and signed by the President;

Notify the Membership of upcoming meetings by distributing, for posting, a Meeting Notice at each worksite at least five (5) days before the meeting date, with an agenda if possible;

Submit Leave of Absence forms for Members on union business;

Ensure the Secretary-Treasurer receives a copy of all Leave of Absence forms;

Take over the duties of the Corresponding Secretary at the monthly meetings if the Corresponding Secretary is excused or ill.

On termination of office, surrender all correspondence, files and other property of the Union to the successor.

Section (d) — Corresponding Secretary

The Corresponding Secretary shall;

Preside at the Membership and Executive Board meetings in the absence of the President and both Vice-Presidents;

Take over the duties of the Recording Secretary at the Membership and Executive Board meetings if the Recording Secretary is excused or ill;

Preserve in order all written motions, letters, papers and all other documents relating to the Union;

Be responsible for all correspondence. The Corresponding Secretary shall prepare any document or publications, which the Membership directs. The Corresponding Secretary shall forward to the National Office all information required;

Keep a correct list of names and addresses of the Union Members;

On the termination of office, surrender to the duly elected successor all correspondence, files and other property of the Union.

Section (e) - Secretary-Treasurer

In addition to the duties prescribed in the National Constitution the The Secretary-Treasurer shall;

Preside at the Membership and Executive Board meetings in the absence of the President and both Vice-Presidents;

Be bonded through the master bond held by the National Office, and any Secretary-Treasurer who cannot qualify for the bond shall be disqualified from office;

Keep all financial accounts of the Union, and shall maintain correct and proper accounts of its Members;

Receive the initiation fees, dues, assessments and fines from Members of the Union, and shall deposit the same in the name of the Union in such bank or credit union in such manner as the Union may direct;

Prepare all CUPE National per capita tax forms and remit payment not later than the last day of the following month;

Make a full financial report to the regular meetings of the Local's Executive Board, as well as a written financial report to each regular Membership meeting, detailing all income and expenditures for the period;

Prepare and sign cheques on behalf of the Union only as authorized and ordered by the Membership or the Executive Board;

Commented [LS10]: This is a duty previously held by the Corresponding Secretary. The Secretary-Treasurer has no duties at either of these meetings other than to present a report. The Corresponding Secretary, on the other hand, replaces an absent Recording Secretary. The Secretary-Treasurer is thus in a better position to assume the chair.

Be responsible for the safekeeping of any bonds, securities or deeds that are the property of the Union, and shall deposit them in a safety deposit box at wherever the Union banks;

Be responsible for keeping the official digital copies of the Collective Agreements and these By-laws.

Be responsible for maintaining an inventory of insurable equipment;

The Secretary-Treasurer shall submit all books and records for audit to the Trustees once a year as required by National Office. (See B.3.12 (a) CUPE National Constitution).

The Secretary-Treasurer shall issue each Member in good standing a current Membership card.

At the end of the term of office, the Secretary-Treasurer shall turn over to the duly elected successor all properties and assets, including funds, books, equipment and records belonging to the Union or any of its Members.

Section (f) - Recording Secretary

In addition to the duties prescribed in the National Constitution the The Recording Secretary shall:

Keep a full and correct and impartial record of the proceedings of each meeting of the Local and Executive Board in minute books which shall be supplied for that purpose; and these minutes shall be confirmed at the next meeting and signed by the President;

Notify the Membership of upcoming meetings by distributing, for posting, a Meeting Notice at each worksite at least five (5) days before the meeting date, with an agenda if possible;

Submit Leave of Absence forms for Members on union business;

Ensure the Secretary-Treasurer receives a copy of all Leave of Absence forms;

Take over the duties of the Corresponding Secretary at the monthly meetings if the Corresponding Secretary is excused or ill.

On termination of office, surrender all correspondence, files and other property of the Union to the successor.

Section (f) - Corresponding Secretary

The Corresponding Secretary shall;

~~Preside at the Membership and Executive Board meetings in the absence of the President and both Vice Presidents;~~

Take over the duties of the Recording Secretary at the Membership and Executive Board meetings if the Recording Secretary is excused or ill;

Preserve in order all written motions, letters, papers and all other documents relating to the Union;

Be responsible for all correspondence. The Corresponding Secretary shall prepare any document or publications, which the Membership directs. The Corresponding Secretary shall forward to the National Office all information required;

Keep a correct list of names and addresses of the Union Members;

On the termination of office, surrender to the duly elected successor all correspondence, files and other property of the Union.

Section (g) - Chief Shop Steward

The Chief Shop Steward shall;

Commented [LS11]: A problem has arisen because of the failure to keep track of official digital copies of these documents. The placing of this responsibility on the shoulders of the Secretary-Treasurer should allow us to resolve this issue. The Secretary-Treasurer is already responsible for presenting these documents to the Trustees every year.

Commented [LS12]: This is a duty previously held by the Corresponding Secretary. The Secretary-Treasurer has no duties at either of these meetings other than to present a report. The Corresponding Secretary, on the other hand, replaces an absent Recording Secretary. The Secretary-Treasurer is thus in a better position to assume the chair.

~~Be the shop steward representative from their permanent department.~~

Conduct monthly shop steward meetings and keep record of all Grievances;
Report regularly at all Executive Board Meetings and to the ~~members~~ **Member** at the Membership Meetings;
On termination of office, surrender all correspondence, files and other property of the Union to the successor.

Section (h) – Diversity Representative

The Diversity Representative shall:

Identify with and represent at least one of the following groups: First Nations, Metis or any other racial and/or cultural minorities; homosexual, bisexual and/or trans-gender individuals; people with physical, mental or other challenges; or any other generally acknowledged minority group.

Bring to the attention of the Executive Board and the Membership issues and concerns of people in the above mentioned minorities.

Assist the Executive Board and the Membership address issues and concerns of people in the above mentioned minorities.

Perform other duties as may be assigned from time to time.

On termination of office, surrender all correspondence, files and other property of the Union to the successor.

Commented [LS13]: The National President in his letter of October 14, 2014, brought to our attention that an Executive Officer cannot serve in two positions. This corrects that problem. It also allows for an extra shop steward and releases the Chief Shop Steward from departmental duties and frees them to concentrate on assisting the other Shop Stewards. It also gives Members of all departments opportunity to elect their own shop steward.

Commented [LS14]: This clause was approved at the November 18, 2006, General meeting but the record of its passage did not get noted in the minutes. Except for the change in location from (k), the inclusion ``bisexual`` and the change in the wording of the last sentence to be identical with the last sentence in the preceding sections, this Section remains unchanged.

Section (i) - Sergeant at Arms

The Sergeant At Arms shall:

Guard the inner door and admit no one but Members in good standing or ~~officers~~ **Officers** and officials of the Canadian Union of Public Employees except on the order of the President and by consent of the Members present;

Check all ~~members~~ **Members** for valid CUPE Membership cards, or have the ~~members~~ **Members** in question properly vouched for;

Maintain the record of Membership attendance at meetings of the Local on the official record to be kept in the charge of the **Recording** Secretary;

Perform such other duties as may be assigned from time to time.

Section (j) -Trustees

Three (3) Trustees are to be elected, each to serve for a three (3) year term.

One Trustee is to be elected annually.

One Trustee shall exercise general supervision over the property of the Union.

The Trustees shall:

In addition to the duties prescribed in the National Constitution, the Trustees shall:

Act as an auditing committee on behalf of the ~~members~~ **Members** and audit the books and accounts of the Corresponding Secretary, Secretary-Treasurer, the Recording Secretary and the Standing Committees at least once every calendar year;

Make a written report of their findings to the first Membership meeting following the completion of each audit;

Submit in writing to the President and Secretary-Treasurer any recommendations and/or concerns they feel should be reviewed in order to ensure that the Local Union's funds, records, and accounts are being maintained by the Secretary-Treasurer in an organized, correct and proper manner;

Be responsible to ensure that monies are not paid out without proper Constitutional or Membership authorization;

Ensure that proper financial reports are made to the Membership;

Audit the record of attendance;

Inspect at least once a year any stocks, bonds, securities, office furniture and equipment, and titles or deeds to property that may at any time be owned by the Local, and report their findings to the Membership;

Send a copy of the completed audit report (on the prescribed form provided by the National Secretary-Treasurer), as well as a copy of their report to the Local Union **membership** **Membership** along with a copy of their recommendations and/or concerns to the President and Secretary-Treasurer and the Secretary-Treasurer's response, to the National Secretary-Treasurer of the Canadian Union of Public Employees, with a copy to the assigned servicing representative; (Articles B.3.10 to B.3.12)

ARTICLE 9 – CONDUCT AND DISCIPLINE

(a) With the exception of the first step in grievance procedure as set forth in the agreements with management, no Officer, Shop Steward, or Member shall meet with representatives of management or Members of management to negotiate an agreement or change in working conditions or wages, or discuss any grievance, or sit in any committee with management or its representatives to discuss any matter or matters which could concern any Members of this Local, unless he is accompanied by at least one other Officer of this Local.

(b) All charges against members **Members** or officers **Officers** shall be made in writing and handled in accordance with Appendix B. XI of the National Constitution.

(c) This clause shall not apply to any representative of CUPE or any agent who is not a Member of this Local and who has been engaged to negotiate with management, provided that such negotiations have previously been approved by the Members in meeting assembled.

ARTICLE 10 – STANDING COMMITTEES

Membership on all standing committees shall be appointed by the Executive Board or by election where stated. These committees will stand for a term of one (1) year.

All Committees must be accountable to the Executive Board and submit a written report.

Unless otherwise stated, the President shall appoint a chairperson of a committee from amongst the members of the committee.

Section (a) - Liaison Committee

Consists of three (3) Members of the Executive Board and three (3) Members of the Board of Education. Purpose is to discuss unresolved issues of Labour Management.

Section (b) - Labour Management Committee

~~The Chief Shop Steward and other members shall form this Committee to deal with Subjects for discussion.~~

This committee shall consist of the Executive Board and the Shop Stewards. The Executive Board shall appoint members of this committee to serve as needed on the

Commented [LS15]: The Bylaws failed to mention the manner in which Chairpersons of several of these committees were determined. What we have added here is our current practice.

Commented [LS16]: The committee found the wording of this clause to be unclear both in defining the actual membership of the committee and its function. The new wording reflects our current practice and ties the Committee to its function in the Collective Agreement. By allowing the Executive Board to appoint the four members of the Committee who will meet with Management allows the flexibility to ensure that the proper Member attends when matters that concern them are addressed in the joint committee.

Labour Management Co-operation Committee established in Article 9 of the Collective Agreement.

The Chairperson will be chosen from within this Committee.

Section (c) - Shop Stewards Grievance Committee

This Committee will comprise of the Shop Stewards and the Chief Shop Steward. Shop ~~stewards~~ **Stewards** are to be elected in-house on a departmental basis at the December election meeting. **Each department shall elect one Shop Steward.**

The Chief Shop Steward shall be the chair of the Grievance Committee.

Section (d) - Constitution and By Laws Committee

Committee consists of not less than four (4) and no more than six (6) Members who will recommend amendments to the **National Constitution** and **these CUPE 459 By-laws** ~~By-Laws~~ as required.

Commented [LS17]: The Bylaws failed to mention who is the Chairpersons this committees although it is hinted at in 8 (g). What we have added here is our current practice.

These members **Members** will be appointed by the Executive Board.

Section (e) - Job Evaluation Committee (JEC)

The Job Evaluation Committee (JEC) shall consist of five (5) ~~members~~ **Members**, one (1) from each of the five (5) departments and shall be elected in-house on a departmental basis.

JEC Members shall serve a (3) year term, and be elected in accordance with the following three (3) year cycle:

- in the first year, one (1) Member from each of the Clerical and Custodial Departments;
- in the second year, one (1) Member from the Maintenance Department;
- in the third year, one (1) Member form each of the Transportation and Education Assistant Departments.

Three (3) Members shall be selected, from and by, the five (5) Members of the JEC, for the purpose of meeting with the three (3) management representatives at the Joint Job Evaluation committee (JJEC) Meeting, to evaluate CUPE positions, in accordance with the Maintenance Agreement of the Job Evaluation Plan

A new selection shall be made for each JJEC Meeting, and shall give priority to the JEC Member(s) from the Department(s) of the position(s) to be evaluated by the JJEC

Section (f) - Negotiating Committee

Any Negotiation Committee Member who steps down shall be bound by confidentiality and shall immediately turn over all notes and files to the Chairperson of the Negotiation Committee.

(i) Consist of one (1) Member from each department, elected in-house at the December election meeting prior to the termination of the existing collective agreement and will serve ~~until business arising out of the negotiated agreement is completed until replaced by the newly elected committee.~~

Commented [LS18]: We are aware that the Article 37.02 of the Collective Agreement allows for its amendment during the term of the Agreement by mutual agreement. We felt that the responsibility to engage in these discussions should remain in the hands of the Members elected to negotiate that Collective Agreement. Since the By-laws call for the election of a Negotiating Committee at the December Membership meeting immediately prior to the termination of the existing Collective Agreement, we changed the wording to make it clear that the Negotiating Committee does not stand down once the Collective Agreement they negotiated is ratified but their duties continue until replaced by the new committee on January First of the year the Collective Agreement terminates.

(ii) The function of the Committee shall be to prepare collective bargaining proposals and present to the Membership for approval or rejection and to negotiate collective agreements.

(iii) The CUPE Representative is a non-voting Member of this Committee.

(iv) All matters concerning the negotiating and application of the agreement between management and the Local shall be subject to the ratification by the Members in meeting assembled. This meeting shall be presided over by the President of the Union ~~or~~ or by the Chairperson of the Negotiating Committee. Members shall be notified at least two (2) working days in advance of the vote to ratify of the details of the changes in the contract.

(v) Only those Members present at the time of voting may cast a ballot.

Additional Sergeant at Arms may be appointed by the Executive Board for this meeting only to assist in maintaining security.

Section (g) - Health and Safety Committee

This committee is composed of at least one (1) member Member from each department elected in-house on a departmental basis at the December election meeting.

Section (h) - Sick and Visiting Committee

This committee is composed of at least one (1) member Member from each department elected in-house on a departmental basis at the December election meeting.

Section (i) - Union Education

(1) The Executive Board shall appoint a Member who shall compile and promote Union Education such as Conferences, Conventions and Seminars. The Member shall keep the Executive Board, the Membership and the Newsletter Editor advised of any courses that will be available.

(2) The Executive Board shall approve any funding by the Union.

Section (j) - Union Counsellors

(1) The Executive Board shall appoint the Counsellor(s). Counsellor(s) must have had a Union recognized course in counselling.

(2) Confidentiality between Counsellor and Counseled must be honoured at all times.

(3) May be required to refer members to appropriate organizations for assistance.

(4) Shall report directly to the President.

Section (k) - Entertainment Committee

(1) The Executive Board shall appoint the chairperson.

(2) Committee made up of volunteers.

(3) Secretary Treasurer shall be an Ex Officio of this committee.

(4) Report at Membership Meetings and give article to Newsletter Editor.

Section (l) - Pensions, Employment Insurance, WCB and LTD Representative

(1) The Executive Board shall appoint this Representative.

(2) The Member shall keep the Membership informed on any changes to the above policies.

(3) Report at Membership Meetings and give articles to the Newsletter Editor.

Section (i) - Professional Development Committee

(1) This committee shall be comprised of one (1) Member from each Department elected in-house on a departmental basis at the December election meeting.

(2) Along with Management, compile ideas for workshops or courses for Professional Development days.

(3) Report at Membership Meetings and give articles to Newsletter Editor.

Section (j) - Political Action / Communications Committee

(1) The Executive Board shall appoint chairperson.

(2) The committee shall consist of at least (4) members Members.

(3) The committee shall be responsible directly to the Executive Board.

(4) To bring about community awareness of Union's position through various medium.

(5) Any reports or articles to be released must have the Executive Board's approval and the President's signature.

Section (e) - Newsletter Co-ordinator Editor

- (1) The Executive Board shall appoint this position.
- (2) May consist of more than one person.
- (3) Person compiles, edits, publishes, and distributes monthly Newsletter.
- (4) Responsible to the President.
- (5) Deadline for articles is to be established by the Editor.
- (6) Union supplies a computer, laser printer, camera and necessary supplies.

Section (p) — Scholarship Co-ordinator

- (1) The Executive Board shall appoint this position.
- (2) Scholarship Co-ordinator advises the Membership of Scholarships available and where to apply.
- (3) Scholarship Co-ordinator shall send posters to each work site.

Section (q) — Other Committees

- (1) Shall be appointed by the Executive Board.

ARTICLE 11 – COORDINATORS, COUNSELLORS AND REPRESENTATIVES

(i) Union Education

- (1) The Executive Board shall may appoint a Member who shall compile and promote Union Education such as Conferences, Conventions and Seminars. The Member shall keep the Executive Board, the Membership and the Newsletter Editor advised of any courses that will be available.
- (2) The Executive Board shall approve any funding by the Union.

(ii) - Union Counsellors

- (1) The Executive Board shall may appoint the Counsellor(s). Counsellor(s) must have had a Union recognized course in counselling.
- (2) Confidentiality between Counsellor and Counseled must be honoured at all times.
- (3) May be required to refer Members to appropriate organizations for assistance.
- (4) Shall report directly to the President.

(iii) - Pensions, Employment Insurance, WCB and LTD Representative

- (1) The Executive Board shall may appoint this Representative.
- (2) The Member shall keep the Membership informed on any changes to the above policies.
- (3) Report at Membership Meetings and give articles to the Newsletter Editor.

(iv) - Newsletter Co-ordinator Editor

- (1) The Executive Board shall may appoint this position.
- (2) May consist of more than one person.
- (3) Person compiles, edits, publishes, and distributes monthly Newsletter.
- (4) Responsible to the President.
- (5) Deadline for articles is to be established by the Editor.
- (6) Union supplies a computer, laser printer, camera and necessary supplies.

(v) - Scholarship and Bursary Co-ordinator

- (1) The Executive Board shall may appoint this position.
- (2) Scholarship and Bursary Co-ordinator advises the Membership of Scholarships and Bursaries available and where to apply.
- (3) Scholarship and Bursary Co-ordinator shall send posters to each work site.

Commented [LS19]: The By-laws establishes Standing Committees in this Article. We felt that it should remain the ability of the Membership using the means of Amending the Bylaws to establish new Standing Committees. We thought this clause referred to the establishment of Ad Hoc Committees which the Membership or Executive Board can establish as needed to address specific, timely issues. (see Article 11) The clause is either misplaced or unnecessary. We chose the latter.

Commented [LS20]: We have moved these single Member committees`` from Article 10, replaced the obligatory word ``shall`` with the optional word ``may``, and changed the title of the ``Scholarship Co-ordinator`` to ``Scholarship and Bursary Co-ordinator``. We could not find a Section into which we could clearly add these positions so we opted to create a new Section specifically for them. It should be noted that the Scholarship Co-ordinator and Newsletter Editor have been the only positions filled in the recent past. We are not sure whether the other three positions are still necessary but we opted to keep them.

ARTICLE 14 12 – AD HOC COMMITTEES

A special ad hoc committee may be established for a specified purpose and period of time by the Membership at a meeting, or may, by specific authorization of the Membership, be appointed by the President or Executive Board. The Chairperson of any AD HOC committee is responsible for submitting a written report to the Executive Board on a regular basis.

ARTICLE 14 13 – EXTERNAL DELEGATES

Section (a) – Victoria and District Labour Council (VLC)

Delegates to the Victoria and District Labour Council shall be appointed by the Executive Board and the delegate(s) shall report on the proceedings of the Council to the Membership meeting.

Section (b) – CUPE Vancouver Island District Council (VIDC)

Two (2) delegates to the Vancouver Island District Council shall be elected annually.

Additional delegates may be appointed by the Executive Board.

Should a delegate be on the Executive of the Vancouver Island District Council, they may remain a delegate.

The delegates shall report on the proceedings of the council to the Membership meetings.

Section (c) – Affiliated bodies

Delegates, appointed by the Executive Board, to all other affiliated bodies, or who represent the Union on any other body, whether elected or appointed, shall do so for a set period not to exceed one year and, at the end of that period, must either be re-elected or re-appointed if they are to continue to act in that capacity.

Section (d) – Conventions and Conferences

The Executive Board shall appoint delegates to Conventions and Conferences. The Local shall compensate delegates for loss of wages and shall pay all necessary expenses according to the provisions of the Expense Policy. Delegates to conventions shall be at the meeting when the Convention Call is received, or sooner if required under special circumstances. Delegates shall be compensated for loss of salary and all necessary expenses as set by the Local Policy structure. The President is to be first delegate at her/his option.

Section (e) – Education

Representation at education institutes, training courses, schools and seminars shall be on the recommendation of the Executive Board.

ARTICLE 14 14 – FINANCIAL

Section (a) Initiation Fees and Monthly Dues

The initiation fee shall be authorized by CUPE, Local 459. The initiation and readmission fee shall be the maximum authorized in the National Constitution.

The regular monthly dues shall be established or altered by the Local Union only at a regular or special Membership meeting, provided that at least seven (7) days notice at a previous meeting or at least sixty (60) days written notice has been given.

Notwithstanding, if National raises the per capita tax, the Local dues will automatically lift to match the National lift.

Commented [LS21]: The number of delegates we can send to the VIDC is determined by the VIDC By-laws. This addition gives the Executive ability to respond to send additional delegates when the situation warrants a higher complement of delegates and to control expenses as well.

Commented [LS22]: This section was ambiguous as to how delegates were selected or elected nor exactly when that selection or election took place. This change reflects the current practice and language regarding the Expense Policy and also includes Conferences.

Commented [LS23]: We have changed this in response to the National President's concern that we did not specify the amount of the initiation fees. The maximum and minimum amounts are specified in the National Constitution and as we currently charge the maximum, we opted to simply set it as the maximum allowed.

The dues shall be 1.65% of each Member's gross salary, per pay, but in no case shall they be less than \$5.00 (five dollars) per pay.

The dues shall not be changed except upon a majority vote of those present and voting at a regular meeting or special meeting in accordance with the timelines stated above and with Section B 4.3 (c) of the ~~national~~ National Constitution.

Section (b) – Assessment

No assessment of any kind can be made except as voted on by a secret ballot by a two third (2/3) majority of the Membership in meeting assembled, at a regular meeting or a special meeting provided that at least seven (7) days notice at a previous regularly scheduled meeting or at least sixty (60) days written notice has been given. Such assessment shall be subject to the approval of the National President of the Canadian Union of Public Employees.

Section (c) – Disbursement of Funds

- (1) All disbursements of the Local's funds shall be by cheque.
- (2) The President, First-Vice President, Second-Vice President and the Secretary-Treasurer shall be authorised to sign cheques on behalf of the Union. **If the President, First Vice-President or Second Vice-President do not qualify for a bond, the Executive Board shall appoint one of the other Executive Officers to be a signing Officer.**
- (3) All cheques will be signed by two of the authorised signing officers **Officers**.
- (4) When possible, signing officers **Officers** will not sign cheques made out to themselves.

ARTICLE 14 15 – AMENDMENT

(a) These **CUPE 459** By-laws are always subordinate to the **CUPE National** Constitution (including Appendix "B") as it now exists or may be amended from time to time, and in the event of any conflict between these **CUPE 459** By-laws and the **CUPE National** Constitution the latter shall govern. Constitutional interpretation, including determination of conflict, is the prerogative of the National President.

(b) These **CUPE 459** By-laws shall not be amended, added to, or suspended except upon a majority vote of those present and voting at a regular or special Membership meeting following seven days notice at a previous meeting or at least sixty days written notice.

(c) No change in these **CUPE 459** By-laws shall be valid and take effect until approved by the National President of CUPE. **The validity shall date from a letter of approval of the National President. The amendments will become valid on the date the National President writes the letter of approval.**

ARTICLE 15 16 – ORDER OF BUSINESS/RULES OF ORDER

All meetings of the Local shall be conducted in accordance with the basic principles of Canadian parliamentary procedure.

Some of the more important rules to ensure free and fair debate are appended to these **CUPE 459** By-laws as Appendix "A." These rules shall be considered as an integral part of the **CUPE 459** By-laws, and may be amended only by the same procedure used to amend these **CUPE 459** By-laws be decided by the Chairperson in accordance with the **National** Constitution of the Canadian Union of Public Employees but, if the situation is not dealt with there, Bourinot's Rules of Order shall be consulted and applied.

ORDER OF BUSINESS

- (1) **Opening of Session**
- (2) **Roll Call of Officers**
- (3) **Applications for Membership**

Commented [LS24]: The National Constitution requires all signers to be bondable. Rather than forcing an Executive Officer who is not bondable (except for the Secretary-Treasurer who must be bondable) from resigning their position or leaving less than four Executive Officers able to sign on behalf of the Local, we chose to let the Executive Board select another of its members to be a signer. This option is less traumatic.

Commented [LS25]: We changed the wording of this to make it clearer.

- (4) Initiation of New Members
- (5) Reading of Minutes
- (6) Matters Arising from Minutes
- (7) Correspondence
- (8) Secretary-Treasurer's Report
- (9) Committee Reports
 - a. Liaison
 - b. Labour Management
 - c. Shop Stewards
 - d. Health & Safety
 - e. Sick and Visiting
 - f. Union Education Co-ordinator
 - g. Constitution and By-laws
 - h. Trustees
 - i. Entertainment
 - j. Pension, Unemployment Insurance, W.C.B., and L.T.D.
 - k. Job Evaluation
 - l. Negotiation
 - m. Victoria Labour Council Delegates
 - n. Vancouver Island District Council Delegates (VIDC)
 - o. Island Schools Co-ordination Committee Delegates (ISCC)
 - p. Convention Delegates
 - q. Seminar Delegates
 - r. In-service Delegates
 - s. Communications
 - w. Women's
 - u. District Education/Student Issues Delegate
 - v. Scholarships
- (10) Unfinished Business
- (11) New Business
- (12) Nominations
- (13) Elections
- (14) Installation of Officers
- (15) Good and Welfare
- (16) Adjournment

The order of business shall be as prescribed in the National Constitution.

APPENDIX "A" to the BY-LAWS OF LOCAL 459, CUPE

RULES OF ORDER

(1) The President or, in their absence, the First Vice-President, shall take the chair at all Membership meetings. In the absence of both the President and First Vice-President, the Second Vice-President or Corresponding Secretary Secretary-Treasurer (in same order) shall act as President. The President may appoint the First or Second Vice-President to chair a meeting from time to time.

(2) A quorum at a Membership meeting shall be a minimum of 15 Members of which three (3) shall be President (or delegate) and two (2) other Executive Officers.

Commented [LS26]: The National President in his letter of October 14, 2014, noted that Article B.6.1 of the National Constitution includes the reading of the Equality Statement and told us that ``Local 459 will need to amend the Order of Business when I next reviews its bylaws.'' To avoid any conflict with the National Constitution we thought it best to delete our own Order of Business and follow the Order of Business in the National Constitution which prevails anyway.

Commented [LS27]: This is a duty previously held by the Corresponding Secretary. The Secretary-Treasurer has no duties at either of these meetings other than to present a report. The Corresponding Secretary, on the other hand, replaces an absent Recording Secretary. The Secretary-Treasurer is this in a better position to assume the chair.

(3) No Member, except the Chairperson of a committee making a report or the mover of a resolution, shall speak more than three minutes, or more than once on the same question, without the consent of the meeting or until all who wish to speak have had an opportunity. Chairmen and movers of a resolution shall be limited to five minutes, except with the consent of the meeting.

(4) A motion to be entertained by the presiding ~~officer~~ Officer must be moved and seconded.

(5) A motion to amend, or to amend an amendment, shall be in order, but no motion to amend an amendment to an amendment shall be permitted. No amendment, or amendment to an amendment, which is a direct negative of the resolution shall be in order.

(6) On motion, the regular order of business may be suspended by a 2/3 vote of those present, to deal with urgent business.

(7) All resolution and motions other than those named in Rule 17, or those to accept or adopt the report of a committee, shall, if requested by the presiding ~~officer~~ Officer, be presented in writing before being put to the Local.

(8) Any Member having made a motion can withdraw it with consent of the seconder except that any motion, once debated, cannot be withdrawn except by a majority vote of those present.

(9) When a Member wishes to speak on a question or to make a motion, they shall rise in their place and respectfully address the presiding ~~officer~~ Officer but, except to state that they rise to a point of order or on a question of privilege, they shall not proceed further until recognized by the chair.

(10) When two or more Members rise to speak at the same time, the presiding ~~officer~~ Officer shall decide which one is entitled to the floor.

(11) Every Member, while speaking, shall adhere to the question under debate and avoid all personal, indecorous or offensive language, as well as any poor reflection of the Local or Member thereof.

(12) If a Member, while speaking, is called to order, they shall cease speaking until the point is determined; if it is decided the Member is in order, they may again proceed.

(13) No religious discussion shall be permitted.

(14) The President shall take no part in debate while presiding, but may yield the chair to a Vice-President in order to speak on any question before the Local, or to introduce a new question. The President may resume the chair once the issue in question is completed or resolved.

(15) The Chairperson shall have the same rights as the other Members to vote on any question. In case of a tie, the Chair may give a casting vote or refrain from breaking the tie, in which case the motion is lost. Unless otherwise noted, for a motion to pass, it must receive a simple majority of votes cast. Any motion that fails to receive the number of votes necessary for passage shall be defeated. The chairperson shall not have a deciding ~~vote~~.

(16) When a motion is before the Local, no other motion shall be in order except (1) to adjourn; (2) to put the previous question to end debate; (3) to postpone for a definite time; (4) to refer; (5) to divide or amend, which motion shall have precedence in the order named. The first ~~two four~~ of these shall be decided without ~~debate~~.

(17) A motion for the previous question to end debate when regularly moved and seconded shall be put in this form: "Shall the main question be now put? Shall the debate cease?" If it is adopted, the President shall proceed to take the vote on the resolution and amendments (if any) according to their priority. If an amendment or an amendment to an amendment is adopted, the original resolution, as amended, shall be put to the Local.

(18) A motion to adjourn, having been put and lost, shall not be in order again if there is further business before the Local, until fifteen (15) minutes have elapsed.

Commented [LS28]: This places into the bylaws the number of votes necessary for regular motions to pass. This also removes the potential for the chairperson to be able to cast two votes which we deemed undemocratic. We could have given the chairperson a vote only in the case of a tie but this denies them their democratic right to have a voice and vote in all cases. This means that a tie vote is a defeat of the motion, not an indication of indecision. CUPE National suggest that in the event of a tie a potential series of revotes should occur. We disagreed and thought it best to fully respect the language about the number of votes needed for the passage of a motion.

Commented [LS29]: We amended this clause and the following clause to clarify the language. Since a vote does not occur until the debate is finished, what actually needs to be done to proceed with a vote is to end debate.

(19) A motion to adjourn is in order except (1) when a Member has the floor; and (2) when Members are voting.

(20) After the presiding ~~officer~~ **Officer** declares the vote on a question, and before the Local proceeds to another order of business, a show of hands shall be made, unless the vote is close - then a standing vote shall be taken and the Corresponding Secretary shall count same.

(21) If any Member wishes to challenge (or appeal) a decision of the chair, the Member must do so at the time the decision is made. If the challenge is seconded, the Member shall be asked briefly the basis for their challenge. The chairperson may then state briefly the basis for their decision, following which the chairperson shall immediately and without debate put the question: "Shall the decision of the chair be sustained?" A majority vote shall decide except that, in the event of a tie, the chair is sustained.

(22) After a question has been decided, any two Members who have voted in the majority may, at the same meeting or next meeting, move reconsideration thereof.

(23) No Member shall enter ~~ef~~ or leave a meeting during the reading of the minutes, the initiation of new Members, the installation of ~~officers~~ **Officers** or the taking of a vote.

(24) The Local's business and proceeding of meetings are not to be divulged to any person outside the Local or the Canadian Union of Public Employees.

(25) Notwithstanding Article 8 (i), a dependant of a Member in good standing may attend a meeting with that Member.

ANY ITEMS NOT COVERED IN THESE CUPE 459 BY-LAWS ARE COVERED BY THE NATIONAL CONSTITUTION.

Commented [LS30]: It has been the practice of the Local to allow Members to bring their children or adult dependants to meetings. We realize that childcare is not always an option and we do not want to prevent Members from participating in the meetings of the Local simply because child care is not available, practical or affordable.