



## CONSTITUTION

BC Society • Societies Act

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CAROL PREST

NAME OF SOCIETY: **THE POST-SECONDARY EMPLOYERS' ASSOCIATION**

Incorporation Number: S0031981

Business Number: 89298 1630 BC0001

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The name of the Society is THE POST-SECONDARY EMPLOYERS' ASSOCIATION

The purposes of the Society are:

a. To coordinate the following amongst its Members:

- i. Compensation for employees who are not subject to collective agreements;
- ii. Benefit administration;
- iii. Human Resource practices;
- iv. Collective bargaining objectives;

b. To assist the Public Sector Employers' Council established under the *Public Sector Employers' Act* in carrying out any objectives and strategic directions established by the Council;

c. To bargain collectively on behalf of its members and to bind its members to collective agreements;

d. To co-ordinate collective bargaining and to establish policies for the content, administration and interpretation of collective agreements;

e. To advise on grievances and to represent a member in any arbitration or other matter or proceeding which is of interest or concern to the Society or any member;

f. To negotiate on behalf of its members with representatives of employees;

g. To foster consultation between:

- i. The Association and representatives of the employees of its Members;
- ii. Its Members

  
CAROL PREST

# The Post-Secondary Employers' Association

## Bylaws

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### Part 1 Definitions

1.1 In these Bylaws, unless the context otherwise requires:

- (a) “annual general meeting” means the annual general meeting of all Members of the Association held in accordance with the provisions of the Societies Act to transact:
  - i. the adoption of the rules of order;
  - ii. the consideration of the financial statements;
  - iii. the consideration of the annual report of the Directors;
  - iv. the consideration of the auditor’s report, if any;
  - v. the election of the Directors;
  - vi. the election of Officers of the Association;
  - vii. the appointment of the auditor, if required; and
  - viii. other business which is brought under consideration by the report of the Directors issued with the notice convening the general meeting;
- (b) “Association” means The Post-Secondary Employers’ Association;
- (c) “Board Chair” means the Chair of the Board of the Association elected pursuant to Bylaw 10.2;
- (d) “Board Vice-Chair” means the Vice-Chair of the Board of the Association elected pursuant to Bylaw 10.6;
- (e) “chairperson” means the chairperson of a committee of the Association or a general meeting of the Members;
- (f) “Chief Executive Officer” or “CEO” means the person employed pursuant to Bylaw 10.10 (except where the context indicates that the term refers to the chief executive officer of a Member);
- (g) “Code” means the *Labour Relations Code*, R.S.B.C. 1996, c.244, as amended from time to time, or any successor legislation;
- (h) “collective agreement” means a collective agreement as defined in the Code;

- (i) “college, institute and special purpose, teaching university sector” means every institution as defined in the *College and Institute Act*, every special purpose, teaching university as defined in the *University Act*, the British Columbia Institute of Technology and the employees of those employers;
- (j) “Directors”, “Board of Directors” or “Board” means the Directors of the Association from time to time;
- (k) “dispute” includes a dispute as defined in the Code;
- (l) “Executive Committee” means the committee designated pursuant to Bylaw 9.1(a);
- (m) “general meeting” means a meeting of all the Members of the Association;
- (n) “Government” means the government of the Province of British Columbia;
- (o) “governor” means any member of the governing body of a Member, who is not a member of any union local or other group or organization with which the Association is required to bargain collectively;
- (p) “Member” means an institution as defined in the *College and Institute Act*, a special purpose, teaching university as defined in the *University Act*, the British Columbia Institute of Technology and the Government;
- (q) “Minister” means the minister responsible for the *Public Sector Employers Act* and Chair of the Public Sector Employers’ Council;
- (r) “Officer” means any Officer of the Association designated pursuant to Bylaw 10.2, 10.6 or 10.7. For the purposes of the Societies Act, Officers are senior managers.
- (s) “ordinary resolution” means:
  - i. a resolution passed at a general meeting by a simple majority of the votes cast by the voting members;
  - ii. a resolution consented to in writing, after being sent to all of the voting members, by at least 2/3 of the voting members;
  - iii. if the bylaws authorize indirect or delegate voting or voting by mail or another means of communication, including by fax, email or other electronic means, a resolution passed by a simple majority of the votes cast, in accordance with the bylaws, on the resolution;
- (t) “Public Sector Employers Act” means the *Public Sector Employers Act*, R.S.B.C. 1996, c. 384 as amended from time to time, or any successor legislation;
- (u) “registered address” of a Member or Director means the address of a Member or Director as recorded in the respective registers of the Association from time to time;
- (v) “Secretary” means the Chief Executive Officer or any other person appointed by him/her to execute the responsibilities of the Secretary as set out in Bylaw 10.13;

- (w) “Societies Act” means the Societies Act, S.B.C. 2015, c. 18, as amended from time to time, or any successor legislation;
- (x) “special business” means all business other than the adoption of rules of order transacted at any general meeting of the Members of the Association and any business transacted at an annual general meeting other than the business set out in the definition of “annual general meeting”;
- (y) “special resolution” means:
  - i. a resolution passed in a general meeting by a majority of not less than 66% of the votes as determined in accordance with these bylaws;
    - A. forwarded to the Chief Executive Officer of the Association and each Member, specifying the intention to propose the resolution as a special resolution has been given not less than 45 days and not more than 60 days prior to the date set for the general meeting; or
    - B. if every Member entitled to attend and vote at the meeting so agrees, at a meeting of which less than 45 days’ notice has been given;
  - ii. a resolution consented to in writing by every Member of the Association who would have been entitled to vote on it at a general meeting of the Association; and a resolution so consented to shall be deemed to be a special resolution passed in a general meeting of the Association;
  - iii. where the Association has adopted a system of indirect or delegate voting or voting by mail, a resolution passed by at least 66% of the votes cast in respect of the resolution;
- (z) “union” means a trade union as defined in the Code;
- (aa) “vice-chairperson” means the vice-chairperson of a committee of the Association;

- 1.2 Expressions referring to writing shall be construed as including references to electronic mail, printing, facsimile, lithography, typewriting, photography and other modes of representing or reproducing words in a visible form.
- 1.3 The rules of construction contained in the *Interpretation Act*, R.S.B.C. 1996, c.238, as amended from time to time, or any successor legislation, shall apply, *mutatis mutandis*, to the interpretation of these Bylaws.
- 1.4 The meaning of any words or phrases defined in the *Public Sector Employers Act* shall apply to these bylaws.
- 1.5 The meaning of any words or phrases defined in the Societies Act shall, subject to the definition of Special Resolution contained in these Bylaws, apply to these Bylaws.

## **Part 2          Membership**

- 2.1 The Members of the Association are:

- (a) The public sector employers in the college, institute and special purpose, teaching university sector;
  - (b) The Government.
- 2.2 The Government may appoint not more than 2 persons as Directors to the Association and may remove any person so appointed and may appoint another person as Director to replace the person so removed at any time that the Government considers appropriate.
- 2.3 The appointment or removal of a Director by the Government under Bylaw 2.2 shall be effective on notice of the appointment or removal being received by the Association.
- 2.4 Every Member shall uphold the constitution and comply with these Bylaws.
- 2.5 All Members, other than the Government, are in good standing except:
- (a) A member that has failed to pay the Member's current annual membership fee for the period April 1 to March 31 of the following year or any other fee, assessment, subscription or debt due and owing by that Member of the Association and that Member is not in good standing so long as the debt remains unpaid, or
  - (b) A member who has been determined by the Directors under Bylaw 8.13 not to be in good standing.
- 2.6 A Member, other than the Government, shall cease to be a Member of the Association on the Member ceasing to be a public sector employer in the college, institute and special purpose, teaching university sector but no public employer in the college, institute and special purpose, teaching university sector may be expelled from the Association.

### **Part 3 Membership Fees and Assessments**

- 3.1 The funds required by the Association for a particular year shall be provided as follows:
- (a) an amount agreed to by the Government for a particular year shall be provided by the Government;
  - (b) 50% of the balance of total budget of the Association for a particular year shall be provided by an equal assessment payable by each of the Members, other than the Government;
  - (c) 50% of the balance of the total budget of the Association for a particular year shall be provided by the Members, other than the Government, calculated on a pro rata basis, according to the applicable base operating grant of each Member for the preceding year.

The sums determined by Bylaw 3.1(b) and (c) for each Member, other than the Government, shall be considered the annual membership fee payable by that Member.

- 3.2 Each Member, other than the Government, shall pay to the Association the annual membership fee and special assessments in such a manner and at such time or times as may

be determined by the Directors, from time to time, and any Member, other than the Government, failing to do so shall not be in good standing.

- 3.3 A Member which is not in good standing pursuant to Bylaw 3.2 shall not be entitled to attend at any general meeting of the Association, nor shall such Member be entitled to vote on any matter before any general meeting of the Association in any circumstances whatsoever, and such Member shall not otherwise be entitled to participate in any of the affairs of the Association.
- 3.4 (a) The amount of the first annual membership fee shall be set by the Directors and after that the annual membership fee shall be set at the annual general meeting of the Association;
- (b) The funds received from payment of the annual membership fee set under subsection (a) shall be applied to further the purposes of the Association as set out in its constitution.
- 3.5 Under exceptional circumstances and consistent with the notice provisions for special resolutions, the Directors may make such special assessments from time to time as the Directors determine are necessary provided that such special assessments are approved by not less than 66% of the Members present at a general meeting. Special assessments shall be apportioned consistent with Bylaw 3.1.
- 3.6 The Directors shall determine the manner and time of payment of assessments and special assessments.
- 3.7 The funds received from payment of special assessments pursuant to Bylaw 3.5 shall be applied to provide the services for which the special assessment is levied.
- 3.8 The Directors shall publish annually a list of core and optional services available to Members. Core services shall be provided without further charge to the Members. Optional services may be provided on a fee-for-service basis at fees determined, in each instance, by the Directors.

#### **Part 4 General Meetings of the Members**

- 4.1 General meetings of the Association shall be held at the time and place, in accordance with the Societies Act, that the Directors decide.
- 4.2 Every general meeting, other than an annual general meeting, is a special general meeting.
- 4.3 The Directors may, when they think fit, convene a special general meeting;
- 4.4 (a) Notice of a general meeting shall be given at least 14 days and not more than 60 days before the meeting to:
- i. every Member shown on the register of Members on the day notice is given,
  - ii. the Chief Executive Officer, and
  - iii. the auditor.

- (b) No other person is entitled to receive a notice of a general meeting.
  - (c) Notice of a general meeting shall specify the place, day and time of meeting, and, in case of special business, the general nature of that business, and provide the text of any special resolution to be submitted to the meeting.
  - (d) If notice was given, the non-receipt of that notice by any of the Members does not invalidate proceedings at that meeting
- 4.5 An annual general meeting shall be held at least once in every calendar year.
- 4.6 The Association may, in general meeting, make rules not inconsistent with these Bylaws respecting any matter considered appropriate including, without limitation:
- (a) any matter referred to in these Bylaws, and
  - (b) any matter related to any of the purposes of the Association
- 4.7 Each Member institution is entitled to send two delegates to a general meeting, who shall be the Member's chief executive officer (or designate where the chief executive officer is unable to attend) and the senior human resource and labour relations officer (or his/her designate where he/she is unable to attend). The Government is entitled to send its two directors to a general meeting. Except where specifically provided otherwise in these Bylaws, each Member institution shall have one (1) vote which shall be cast by the Member's chief executive officer (or her/his designate). Each government director shall have one vote, whether or not weighted voting applies. The votes of the Members may be cast to determine the following:
- (a) The election of Directors pursuant to Bylaw 7.3 ;
  - (b) Special resolutions;
  - (c) Approval of the annual budget;
  - (d) Ordinary resolutions; and
  - (e) Approval of the formula for determining the annual assessments of Members.
- 4.8 Each Member is entitled to written notice of the date, time and location of a general meeting in accordance with Bylaw 4.4. Each Member may, in any manner, waive that Member's entitlement to notice of a general meeting or may agree to reduce the period of such notice. Attendance of a Member at a general meeting is a waiver of that Member's entitlement to notice of the meeting, unless the Member attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
- 4.9 Except as otherwise provided by the Societies Act, where any special business at a general meeting includes considering, approving, ratifying, adopting or authorizing any document or the execution of any such document or the giving of effect to any such document, the notice convening the meeting shall, with respect to such document, be sufficient if it states that a copy of the document or proposed document is or will be available for inspection by

Members at the registered office or records office of the Association or at some other place in British Columbia designated in the notice during usual business hours up to the date of such general meeting. Every reasonable effort shall be made to provide Members with documentation.

- 4.10 Weighted voting applies to proposed amendments to the constitution, proposed amendments to the bylaws, and elections of the Directors, other than those appointed by Government and the Directors referenced in Bylaw 7.4. Weighted voting is based on each Member having the number of votes reflecting the percentage (rounded to the nearest whole number, by .5 and lower being rounded to the nearest lower whole number and by greater than .5 being rounded to the nearest higher whole number) of that member's total employees FTEs of all Members of the Association as reflected in the latest version of the Association's Human Resource Database. For greater clarity, and by way of comparison only, if the percentage of a Member's total employee FTE is less than or equal to 16.5%, that member would receive 16 votes. If the percentage of a member's total employee FTE is greater than 16.5%, that member would receive 17 votes.

## **Part 5 Proceedings at General Meetings**

5.1 Special Business is:

- (a) all business at a special general meeting except the adoption of rules of order, and
- (b) all business transacted at an annual general meeting except,
  - i. the adoption of rules of order;
  - ii. the consideration of the financial statements;
  - iii. the report of the Directors;
  - iv. the report of the auditor, if any;
  - v. the election the Directors;
  - vi. the election of the Officers of the Association;
  - vii. the appointment of the auditor, if required, and
  - viii. the other business that, under these Bylaws, ought to be transacted at an annual general meeting.

5.2 No business, other than the adjournment or termination of the meeting, shall be conducted at any general meeting unless the required quorum of Members is present.

5.3 Except as provided in the Societies Act and these Bylaws, a quorum shall be three or more persons present who collectively comprise 51% of all Members of the Association.

5.4 (a) If within 30 minutes from the time appointed for a general meeting, a quorum is not present, the meeting shall be terminated if convened on the requisition of Members,



or in any other case, shall stand adjourned to the same day two weeks later, at the same time and place;

- (b) If, at a meeting adjourned under Bylaw 5.4(a), a quorum is not present within 30 minutes from the time appointed for the meeting, the members present, shall constitute a quorum.

5.5 The Board Chair or in his or her absence, or if there is no Board Chair, the Board Vice-Chair or in his or her absence, or if there is no Board Vice-Chair, another member of the Directors, if any, shall be entitled to preside as chairperson at every general meeting of the Association.

5.6 (a) If at any general meeting neither the Board Chair nor the Board Vice-Chair is present 15 minutes after the time designated for holding the meeting, the Directors present shall choose one of their number to be chairperson of the general meeting.

(b) If at any general meeting neither the Board Chair nor the Board Vice-Chair is willing to act as chairperson, the Directors present shall choose one of their number to be chairperson of the general meeting.

(c) If all the Directors present decline to be the chairperson, the general meeting shall be adjourned.

5.7 The chairperson of a general meeting may, with the consent of the meeting if a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of the original meeting. Except as set out above, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.

5.8 At any general meeting, resolutions shall only be subject to a vote if they have been submitted in writing by a Member to the Directors and have been included in the agenda for the general meeting provided with the notice of the general meeting to all Members. Matters and resolutions not included in the agenda for the general meeting provided with the notice of the general meeting may be discussed in general meeting but may not be voted on.

5.9 Subject to the provisions of the Societies Act, every motion or question submitted to a general meeting, excluding the election of Directors, shall be decided by a show of hands unless (before or on the declaration of the result of the show of hands) a poll is directed by the Board Chair or demanded by any two (2) Members entitled to vote. The Board Chair shall declare to the meeting the decision on every motion or question in accordance with the result of the show of hands or the poll, and such decision shall be entered in the record of proceedings of the Association. A declaration by the Board Chair that a motion or question has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect is the record of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that motion or question.

- 5.10 Subject to the Societies Act, every ballot cast upon a poll shall be retained by the Secretary for such period and be subject to such inspection as the Directors may provide.
- 5.11 Unless the Societies Act or these Bylaws otherwise provide, any action to be taken by a resolution of the Members may be taken by an ordinary resolution.
- 5.12 Except as otherwise provided in these Bylaws or in the Societies Act, the proceedings at all general meetings shall be governed by the latest edition of Robert's Rules of Order.

## **Part 6 Exclusive Bargaining Agent**

- 6.1 Each Member hereby appoints the Association as its sole and exclusive agent:
- (a) to negotiate and, if ratified by the Association pursuant to these bylaws, to conclude and execute all collective agreements involving any union which is the certified bargaining agent for any employee of the Members and to bind Members to those collective agreements;
  - (b) to interpret and administer all such collective agreements; and
  - (c) to negotiate, conclude and execute the settlement of any dispute arising out of any such collective agreement or the negotiation, interpretation, administration or any alleged violation thereof.
- 6.2 The appointment by a Member of the Association as its bargaining agent shall be irrevocable and unalterable.
- 6.3 (a) The Association and Members shall promptly enter into an agreement satisfactory to the Minister respecting their respective rights and obligations.
- (b) The agreement referred to in subsection (a)
- i. does not take effect until approved by the Minister, and
  - ii. may contain provisions setting out the rights and obligations of the parties to the agreement, including, without limitation, the following provisions:
    - A. to confirm the status of the Association as the exclusive bargaining agent for the Members who are signatories to the Agreement;
    - B. to establish and determine the composition of groups of Members for the purposes of master, standard or pattern bargaining;
    - C. to set out the manner by which groups referred to in subparagraph (B) may be created, dissolved or amalgamated or their membership changed;
    - D. to establish one or more processes for determining bargaining proposals and priorities;

- E. to set out the manner in which bargaining committees may be established;
  - F. to set out the reporting relationships and authority of committees established under subparagraph (E) and the process by which persons may be designated to serve on those committees;
  - G. to set out one or more processes for lockout votes;
  - H. to set out one or more processes for ratification votes;
  - I. to set out the relationship between the respective authorities of Members, committees, groups of Members and the Association with respect to the administration of collective agreements including, without limitation, the following matters:
    - 1. Member-specific grievances;
    - 2. Grievances concerning more than one member;
    - 3. Interpreting collective agreements;
    - 4. Mid-contract agreements with employee bargaining agents with respect to interpretation or amendment of collective agreements;
  - J. to establish protocols with respect to communications with employee bargaining agents;
  - K. to establish the obligations of the Members to each other and to the Association and the means by which those obligations may be enforced, including enforcement by injunction;
  - L. to establish a process to resolve disputes between Members or between one or more Members and the Association with respect to the interpretation, application or alleged violation of the agreement;
  - M. to establish a process by which the agreement may be amended.
- (c) Schedule 1 applies to the Association and the Members on and after the date that Bylaw 6.1 becomes effective and ceases to apply to the Association and those Members at the time that the Association and those Members enter into the agreement referred to in subsection (a).

## **Part 7 Directors**

- 7.1 (a) The Directors may exercise all the powers and do all the acts and things that the Association may exercise and do, and which are not by these Bylaws or by statute or otherwise lawfully directed or required to be exercised or done by the Association in a general meeting, but subject, nevertheless, to:

- i. all laws affecting the Association;
  - ii. subject to the Societies Act, these Bylaws, and
  - iii. the rules, if any, made under this Bylaw.
- (b) No rule made by the Association in a general meeting, invalidates a prior act of the Directors that would have been valid if that rule had not been made.

7.2 The number of Directors of the Association shall be 10, including the two Directors appointed by the Government and the two Directors referenced in Bylaw 7.4. In addition to the 10 Directors, the Chief Executive Officer is an ex-officio member of the Board of Directors who may participate in all Board and committee meetings as a member with voice but no vote.

- 7.3 (a) Directors, other than those appointed by Government and the Directors referenced in Bylaw 7.4, shall be elected for a two year term by weighted voting at the general meeting as follows:
- i. one Director elected by and from college Members,
  - ii. one Director elected by and from special purpose, teaching university Members,
  - iii. one Director elected by and from institute Members, and
  - iv. three Directors elected by and from all the Members;

however, no delegate is eligible for election as a Director if there is already a voting Director from her/his institution.

- (b) The terms for elected directors shall be staggered such that one-half of the terms expire at the conclusion of each annual general meeting. Accordingly, the terms for the positions referenced in Bylaws 7.3(a) iv will expire at the conclusion of the first annual general meeting following the transition of the Association under the Societies Act and thereafter shall be two-year terms. The terms for the positions referenced in Bylaw 7.3(a)i, 7.3(a)ii and 7.3(a)iii will expire at the conclusion of the second annual general meeting following the transition of the Association under the Societies Act. This two year staggered cycle will repeat in subsequent years.

7.4 The chairperson and vice-chairperson of the Standing Committee on Human Resources Practices (designated under Bylaw 9.8) shall be Directors with voice but no vote.

7.5 Subject to the qualifications for Directors under the Societies Act, a person may be a Director only if that person:

- (a) is a governor or senior level employee of a Member, or a person appointed by the Government; and
- (b) is willing to devote the time necessary to fully discharge his or her responsibilities to the Association.

- 7.6 No act or proceeding of the Directors is invalid by reason only of there being in office less than the number of Directors required by Bylaw 7.2.
- 7.7 The Directors and the members of committees created by the Directors, but not the Directors appointed by the Government pursuant to Bylaw 2.2, shall be reimbursed for such reasonable traveling, accommodation and other expenses as they incur on and about the business of the Association but the Directors shall receive no remuneration for their services as Directors of the Association.
- 7.8 Where a vacancy occurs amongst the elected Directors that would result in a vacancy of more than four months, the Members shall elect, in a manner to be determined by the Board of Directors but subject to the composition requirements of Bylaw 7.3, another Director to fill the vacancy. The Director elected to fill the vacancy shall serve for the remainder of the term of the individual who ceased to be a Director.

## **Part 8 Proceedings of Directors**

- 8.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 8.2 A Director may participate in a meeting of the Board or of any committee of Directors by means of telephone or other communications facility by means of which all Directors participating in the meeting can hear each other and provided that all such Directors agree to such participation. A meeting so held in accordance with this Bylaw shall be deemed to be an actual meeting of the Board and, subject to ratification of the minutes of such telephone meeting at the next regular meeting of the Board where the Directors are physically present, any resolution passed at such meeting shall be as valid and effectual as if it had been passed at a meeting where the Directors are physically present. A Director participating in a meeting in accordance with these Bylaws shall be deemed to be present at the meeting and to have so agreed and shall be counted in the quorum therefore and be entitled to speak and vote at the meeting.
- 8.3 The quorum necessary for the transaction of the business at a meeting of the Directors shall be five voting Directors.
- 8.4 Questions arising at any meeting of Directors shall be decided by a majority of the votes cast.
- 8.5 The Board Chair or, in his or her absence, the Board Vice-Chair or, in his or her absence, another Director shall preside as chairperson at every meeting of the Directors.
- 8.6 If at any meeting of the Directors, neither the Board Chair nor the Board Vice-Chair is present 15 minutes after the time designated for holding the meeting, the Directors present shall choose one of their number to be chairperson of the Directors' meeting.
- 8.7 The Board Chair or any two Directors may at any time, and the Secretary upon request of any two Directors shall, call a meeting of the Board.
- 8.8 Notice of a meeting of the Board shall be given to each Director at least 7 days before the time fixed for the meeting and shall specify the place, day and time of the meeting and the

general nature of the business to be transacted at that meeting. Such notice will be given in writing, personally or by delivery through the post or by letter, courier or facsimile, email or any other method of transmitting legibly recorded messages in common use.

- 8.9 A Director entitled to notice of a meeting may waive or reduce the period of notice convening the meeting and may give such waiver before, during or after the meeting. If notice was given, the non-receipt of that notice by a Director does not invalidate proceedings at that meeting.
- 8.10 The continuing Directors may act notwithstanding any vacancy in the Board but, notwithstanding Bylaw 8.3, if and so long as their number is reduced below the number fixed pursuant to these Bylaws as the necessary quorum of Directors, the continuing Directors may act for the purpose of summoning a general meeting of the Association, but for no other purpose.
- 8.11 A resolution consented to in writing, whether by document, electronic mail, facsimile or any method of transmitting legibly recorded messages or other means, by all of the Directors is as valid and effectual as if it had been passed at a meeting of the Directors duly called and held, shall be deemed to relate back to any date stated therein to be the effective date thereof and shall be filed in the minute book of the Association accordingly. Any such resolution may consist of one or several documents each duly signed by one or more Directors which together shall be deemed to constitute one resolution in writing.
- 8.12 Subject to the provisions of the Societies Act, all acts done by any meeting of the Directors or a committee of Directors, or by any person acting as a Director, shall be, notwithstanding that it be afterwards discovered that there was some defect in the qualification, election or appointment of any such Directors or of the members of such committee or person acting as aforesaid, or that they or any of them were disqualified, as valid as if every such person had been duly elected or designated and was qualified to be a Director.
- 8.13 (a) In addition to any other powers the Directors have under the Societies Act, the Public Sector Employers Act or these Bylaws, the Directors may take action against a Member for the Member's failure to comply with these Bylaws or with any rule made under Bylaw 4.6
- (b) The Directors may take any one or more of the following actions which will be determined at a meeting of the Directors for which due notice has been provided:
- i. issue a warning to the Member;
  - ii. impose a fine on the Member;
  - iii. determine that the Member is not in good standing for the period the Directors consider appropriate;
  - iv. or any other action determined by the Directors.
- (c) Prior to taking any of the actions under subsection (b)(i) to (iv), the Association must send to the Member written notice of the proposed action, including reasons, and

give the member a reasonable opportunity to make representations to the Association respecting the proposed actions.

- (d) The Association may take the action it considers appropriate to collect from a Member any fine imposed under subsection (b)(ii) including without limitation, bringing an action in a court of competent jurisdiction to recover the debt.

## **Part 9      Committees**

9.1 The Directors may by resolution establish:

- (a) an Executive Committee, whose members shall be the Board Chair, a Director appointed by the Government, the Chief Executive Officer, and such other members as determined by the Board;
- (b) such other committees as the Directors deem necessary and appropriate; and
- (c) the Directors may set terms of reference and make such appointments to these committees as are necessary to give effect to the purposes of these committees.

9.2 Every Director shall receive notice of all meetings of a committee of Directors, and may attend and be heard, whether or not the Director is a member of the committee;

9.3 Any committee designated by the Directors pursuant to Bylaw 9.1 shall have, and may exercise during the intervals between the meetings of the Board, such powers as may be specified in the resolution of the Directors appointing the committee, but such powers shall exclude the power to fill vacancies in the Board, to change the membership of or fill vacancies in any committee and the power to appoint or remove Officers designated by the Board;

9.4 Any committee designated by the Directors shall consist of such Directors and other persons as the Directors may from time to time determine, and the Directors shall designate one of the members of each committee to be the chairperson of such committee. Each committee shall keep regular minutes of its transactions and shall cause such minutes to be recorded in books kept for that purpose, and shall report to the Directors at such times as the Directors may from time to time require. The Directors shall have the power at any time to revoke or override the authority given to or acts done by any committee except as to acts done before such revocation or overriding and to terminate the appointment, change the membership or fill vacancies of any committee.

9.5 Committees designated under this Part may make rules for the conduct of their business and may appoint such assistants as they may deem necessary. A majority of the members of a committee shall constitute a quorum thereof.

9.6 Committees designated under this Part may meet and adjourn as they think proper. Questions arising at any meeting of a committee shall be determined by a majority of votes of the members of the committee present, and in case of an equality of votes the chairperson of the committee shall not have a second or casting vote. The provisions of Bylaw 8.11 shall apply *mutatis mutandis* to resolutions consented to in writing by the members of a committee designated under this Part.

- 9.7 The Association shall reimburse those individuals duly appointed by the Directors to sit on committees established pursuant to Bylaws 9.1 and 9.8 for such reasonable traveling, accommodation and other expenses as they incur in and about the business of the Association, but the individuals appointed to the committee shall receive no remuneration for their services as committee members.
- 9.8 (a) The Board shall establish and maintain the Standing Committee on Human Resources Practices and shall set the committee's terms of references and strategic tasks. The purpose of the committee is to work in collaboration with PSEA staff to provide the Board with information, insight and policy recommendations on matters within the mandate of the Association as established by the Public Sector Employers Act.
- (b) Each Member shall designate annually a senior human resource or labour relations practitioner to act as its representative on the committee. Annually, the committee members shall designate, from amongst themselves, the chairperson and vice-chairperson of the committee.
- 9.9 In addition to the Standing Committee established pursuant to By-law 9.8, through Board resolution, the Directors may establish technical advisory committees and set their terms of reference to:
- (a) work in collaboration with and advise Association staff;
- (b) advise the Board, as appropriate, on matters within the Associations' purposes;
- (c) assist the Association in implementing Board decisions and coordinating Association programs and services.

Such committees shall be comprised of sector and subject matter experts and senior staff from the Members. Unless otherwise specified in the terms of reference, the Association will be responsible for coordinating the operations and reporting progress to the Board with respect to the objectives set for any technical advisory committees established pursuant to this Bylaw 9.9.

## **Part 10      Officers**

- 10.1 At the first Board meeting following the vacancy of the Board Chair, each Director of the Directors elected pursuant to Bylaw 7.3 or appointed pursuant to Bylaw 2.2 may nominate:
- (a) one of the current Directors pursuant to Bylaw 7.3 to serve as Chair, or
- (b) an individual external to the current board to be appointed as an additional director and Chair.
- 10.2 The Board will elect from the nominees the individual to serve as Chair and the Minister must confirm the election or:
- (a) appoint one of the current Directors as Chair, or
- (b) appoint an individual as an additional Director and Chair.



- 10.3 The confirmation or appointment of the Chair pursuant to Bylaw 10.2 shall be effective on notice from the Minister being received by the Association.
- 10.4 The Chair shall serve for a two year term or, if filling a Chair vacancy that arose mid-term, the balance of the term vacated, unless the Chair's term as Director pursuant to Bylaw 7.3 terminates earlier.
- 10.5 The appointment by the Minister of an additional Director and Chair pursuant to Bylaw 10.2(b) may be rescinded on notice from the Minister being received by the Association.
- 10.6 The Board is to elect a Vice-Chair from among the Directors. The Vice-Chair shall serve for a two year term or, if filling a Vice-Chair vacancy that arose mid-term, the balance of the term vacated, unless the Vice-Chair's term as Director pursuant to Bylaw 7.3 terminates earlier.
- 10.7 The Directors shall from time to time appoint such other Directors as Officers, if any, as the Directors shall determine and the Directors may at any time terminate any such appointment. No Officer shall be designated unless he or she is qualified in accordance with the provisions of the Societies Act and these Bylaws.
- 10.8 No person may hold more than one of the offices of Board Chair, Board Vice-Chair, or one of the offices provided for in Bylaw 10.7.
- 10.9 Subject to these Bylaws, the Directors may decide what functions and duties each Officer shall perform and may entrust to and confer upon each of them any of the powers exercisable by them upon such terms and conditions and with such restrictions as they think fit and may from time to time revoke, withdraw, alter or vary all or any of such functions, duties and powers.
- 10.10 The Board shall employ a person as the Chief Executive Officer of the Association at such salary and upon such terms and conditions of employment as the Board shall determine. The Chief Executive Officer shall:
- (a) be the chief operating officer of the Association and the CEO or her/his designate shall be the Secretary and a member of all committees established by the Board. The CEO shall attend all general meetings, and may attend and participate in all meetings of the Board and of committees established by the Board with voice but no vote, subject to a decision by the majority of Directors to exclude her/him in order to discuss the CEO's compensation or performance;
  - (b) manage the affairs of the Association and be responsible for its general operation;
  - (c) employ such other persons as are necessary for the proper administration and operation of the Association subject to an approved budget, and may delegate to them such of his or her duties and responsibilities as he or she sees fit, but no delegate shall have a vote at any meeting of the Board or any of its committees;
  - (d) ensure that the Association complies with the Code, the Societies Act and any other statute having application to the Association;

- (e) prior to a date specified by the Board in each year, prepare and submit to the Board for approval a financial budget for the next fiscal year of the Association.

10.11 The office of the Board Chair shall include responsibility for:

- (a) chairing all meetings of the Association and of the Directors, unless otherwise specified in these Bylaws;
- (b) supervising the other Officers in the execution of their duties;
- (c) serving upon appointment as the Association's representative to the Public Sector Employers' Council; and
- (d) ensuring the timely evaluation of the Chief Executive Officer.

10.12 The office of the Board Vice-Chair shall include responsibility for carrying out the duties of the Board Chair during the Board Chair's absence.

10.13 The Secretary shall:

- (a) process the correspondence of the Association;
- (b) issue notices of meetings of the Association and Directors;
- (c) record minutes of all meetings of the Association and Directors;
- (d) maintain all records and documents of the Association including the financial records and books of account necessary to comply with the Societies Act;
- (e) maintain the register of members of the Association; and
- (f) render financial statements to the Directors, Members and others when required.

10.14 A vacancy in the position of Board Chair shall be filled by the Board Vice-Chair. A vacancy in the position of any other Officer may be filled by decision of the remaining Directors.

## **Part 11 Indemnity and Protection**

11.1 For the purposes of this Part 11:

- (a) “**eligible party**” means a current or former director or senior manager of the Association, an individual who holds or held an equivalent position in a subsidiary of the Association.
- (b) “**eligible proceeding**” means a legal proceeding (including a civil, criminal, quasi-criminal, administrative or regulatory proceeding) or investigative action, whether current, threatened, pending or completed, in which an eligible party or a representative by reason of such eligible party holding or having held a position of current or former Director or senior manager of the Association or an equivalent position in a subsidiary of the Association is or may be joined as a party, or is or may

be liable for or in respect of a penalty in, or expenses related to, the legal proceeding or investigative action.

- (c) “**expense**” includes costs, charges and expenses, including legal and other fees, but does not include penalties.
- (d) “**penalty**” means a judgment, penalty or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding.
- (e) “**representative**” means an heir or personal or other legal representative of an eligible party.

11.2 Subject to the Societies Act and Bylaw 10.8, the Association may, and in the case of Bylaw 11.2 (c), shall:

- (a) indemnify an eligible party or a representative against all penalties to which the eligible party or the representative is or may be liable in respect of an eligible proceeding;
- (b) pay the expenses actually and reasonably incurred by an eligible party or a representative in respect of an Eligible Proceeding:
  - i. after the final disposition of such proceeding; or
  - ii. as they are incurred in advance of the final disposition of an eligible proceeding provided the Society has first received from such eligible party a written undertaking that, if it is ultimately determined that the payment of expenses is prohibited pursuant to the Societies Act or Bylaw 11.3, the eligible party or the representative will repay the amounts advanced;
- (c) pay, after the final disposition of an eligible proceeding, the expenses actually and reasonably incurred by an eligible party (including a current or former director or senior manager of a subsidiary of the Association or his/her heir or representative) in respect of such proceeding if the eligible party has not been otherwise reimbursed for such expenses and such party was not adjudged to have committed any fault or to have omitted to do anything that the eligible party ought to have done.

11.3 Subject to the Societies Act, the Association shall not indemnify or pay the expenses of an eligible party or a representative in respect of an eligible proceeding if:

- i. the eligible party did not act honestly and in good faith with a view to the best interests of the Society or a subsidiary of the Association, as the case may be;
- ii. the eligible proceeding is not a civil proceeding and the eligible party did not have reasonable grounds for believing that his or her conduct, in respect of which the eligible proceeding was brought, was lawful; or
- iii. such eligible proceeding is brought by or on behalf of the Society or a subsidiary of the Association unless the Supreme Court of British Columbia,

on the application of the Association, approves the indemnification or payment of expenses.

- 11.4 The Directors may cause the Association to purchase and maintain insurance for the benefit of any person who is or was serving as a Director, Officer, other senior manager, employee or agent of the Association and his or her heirs or personal representatives against any liability incurred by him or her as such Director, Officer, senior manager, employee or agent.

## **Part 12 Property, Funds and Borrowing**

- 12.1 The property and funds of the Association shall only be used to carry out the purposes of the Association.
- 12.2 The Directors may authorize such person or persons as it seems fit to draw, make, accept, endorse, discount, execute, and issue promissory notes, bills of exchange and other negotiable or transferable instruments.
- 12.3 In accordance with the *Public Sector Employers Act*, the Association must not exercise any of the borrowing powers conferred by the Societies Act or these Bylaws without the prior approval of the Minister.

## **Part 13 Auditor**

- 13.1 At each annual general meeting, the Association shall appoint an auditor to hold office until the auditor is appointed or the auditor's successor is appointed at the next annual general meeting.
- 13.2 An auditor may be removed by ordinary resolution in accordance with the procedures set out in the Societies Act, and must, by ordinary resolution passed at the general meeting at which the auditor is removed, appoint a person as auditor for the remainder of the term of office of the auditor who was removed. The Directors may fill all other vacancies occurring in the office of the auditor, including those caused by the resignation or death of the auditor.
- 13.3 An auditor shall be promptly informed in writing of appointment or removal.
- 13.4 In addition to the other restrictions established by the Societies Act, no Director and no employee of the Association shall be auditor.
- 13.5 The auditor may attend general meetings.
- 13.6 The auditor shall report to each annual general meeting as required by the Societies Act.

## **Part 14 Documents, Records and Financial Statements**

- 14.1 The Association shall keep at its records office or at such other place as the Societies Act may permit the documents, copies, registers, minutes, and records which the Society is required by the Societies Act to keep at its records office or other place, as the case may be.
- 14.2 The Association shall cause to be kept proper books of account and accounting records in respect of all financial and other transactions of the Association in order properly to record the financial affairs and condition of the Association and to comply with the Societies Act.

- 14.3 The Directors shall from time to time at the expense of the Association cause to be prepared and laid before the Association in general meeting such financial statement and reports as are required by the Societies Act.
- 14.4 Every Member shall be entitled to be furnished on demand with a copy of the latest annual financial statement of the Association.

## **Part 15 Seal**

- 15.1 The Directors may provide a common seal for the Association and they shall have power from time to time to destroy such seal and substitute a new seal in place of the seal destroyed.
- 15.2 The common seal shall be affixed only when authorized by a resolution of the Directors and then only in the presence of the persons prescribed in the resolution or, if no persons are prescribed, in the presence of any two Directors or Officers of the Association.

## **Part 16 Notices**

- 16.1 Any notice permitted or required under these Bylaws or under any enactment to be given, sent or delivered to a Member, a Director or the Association may be given, sent or delivered to the Member, Director or Association by written instrument, mail, fax or email or any other method of transmitting legibly recorded messages.
- 16.2 Subject to the Societies Act, a notice sent by mail shall be deemed to have been given on the second day following that on which the notice is posted, and in proving that notice has been given it is sufficient to prove the notice was properly addressed, bore sufficient postage and was put in a Canadian post office receptacle.

## **Part 17 Bylaws**

- 17.1 Each Member is entitled to and the Association shall give the Member, without charge, a copy of the constitution and Bylaws of the Association.
- 17.2 These Bylaws and the constitution shall not be altered or added to except by special resolution. In accordance with the *Public Sector Employers Act*, no alteration or addition shall be effective until approved by the Minister.

## **Part 18 Reporting Society Provisions**

- 18.1 The Association must have an auditor.
- 18.2 At an annual general meeting, a resolution appointing an auditor, other than the incumbent auditor, must not be proposed unless:
- (a) the incumbent auditor has declined reappointment, or
  - (b) at least 14 days' written notice of the proposed resolution has been given to:
    - i. all persons entitled to receive notice of the meeting, and

ii. the incumbent auditor.

- 18.3* The financial statements of the society must be prepared as comparative financial statements relating separately to:
- (a) the period determined under section 35(2) of the Societies Act, and
  - (b) the preceding period, if any, in relation to which financial statements for the Association were prepared.
- 18.4* Despite Reporting Society Provision 18.3, the financial statements of the Association may deal with only the period determined under section 35(2) of the Societies Act if the reason for doing so is set out in the financial statements.
- 18.5* At least 10 days before the date of each annual general meeting, the Association must send to the auditor and to each member a copy of:
- (a) the financial statements that are to be presented at the meeting, and
  - (b) the auditor's report, as defined in section 1 of the Societies Act, on those financial statements.
- 18.6* The Association, on request of a person holding a bond, debenture, note or other evidence of debt obligation, whether secured or unsecured, of the society, must send to the person a copy of the Association's latest financial statements and a copy of the auditor's report, as defined in section 1 of the Societies Act, on those financial statements.

## Schedule 1

S1.1 Each Member hereby appoints the Association as its sole and exclusive agent:

- a. to develop, establish, and administer coordinated approaches to the pursuit of collective bargaining objectives of employers in the sector, which may include, where appropriate, strategies that provide for multiple agendas to accommodate objectives that may be applicable only to a particular group of employers in the sector but that are in the best interest of the sector as a whole. All bargaining agendas, including those applicable only to particular groups of employers in the sector, must be approved by the Board of Directors, and must be consistent with the Association's sectoral plan, including the government mandate;
- b. to negotiate and, if ratified and approved in accordance with sections S1.10 to S1.16 of this Schedule, to conclude and execute all collective agreements involving any union that is the certified bargaining agent for any employee of the Member;
- c. to interpret and administer all such collective agreements;
- d. to negotiate, conclude and execute the settlement of any dispute arising out of or out of the negotiation, interpretation, administration or any alleged violation of any such collective agreement;
- e. to perform such other acts pursuant to the Code and any applicable legislation as the Association may consider to be in the best interests of the Members, and to bind the Members thereby, including (but not limited to) determining whether and when Members of the Association shall lock out their employees, and determining when any such lockout shall end; and
- f. to make such other decisions pertaining to collective bargaining as the Association may consider to be in the best interests of the Members of the Association, and to bind the Members thereby.

S1.2 Each Member agrees with each other Member and with the Association as follows:

- a. the Member is bound by any collective agreement or other agreement pertaining to collective bargaining entered into by the Association on behalf of the Member pursuant to the Bylaws of the Association;
- b. the Member shall not purport to alter, amend, terminate or cancel any collective agreement or other agreement pertaining to collective bargaining entered into by the Association on behalf of the Member pursuant to the Bylaws of the Association;
- c. the Member is bound by and shall observe and perform any directive or instruction of the Association of which the Member is given notice, where such directive or instruction pertains to any matter with respect to which the Association is the exclusive bargaining agent of the Member;
- d. where directed in writing by the Association to lock out some or all of its employees, the Member shall do so at the time specified by the Association, and shall not

employ or continue to employ them, until such time as the Member is directed in writing by the Association to cease locking out those employees;

- e. before nominating or appointing any member of an arbitration board in connection with a grievance affecting a Member, the Member shall bring the grievance to the attention of the Association and shall consult with the Association regarding the disposition of the grievance by allowing, settling, or arbitrating the grievance, the composition of any arbitration board to be constituted, and the position to be taken by or on behalf of the Member before any such arbitration board;
  - f. where the Association determines that a grievance in which a Member is involved is of importance to the Association or its Members, the Association may take such steps as it deems necessary or desirable to dispose of the grievance, including allowing, settling, or arbitrating the grievance, nominating or appointing the members of the arbitration board, determining and presenting the position of the Member before the arbitration board, or otherwise pursuing the grievance to adjudication.
- S1.3 The Association shall apply for and obtain, and, so long as permitted by the Code, shall maintain its accreditation as the bargaining agent on behalf of the Members that are certified by one or more unions and the Members shall govern themselves in accordance with the Code and these Bylaws.
- S1.4 In the event of a conflict between the Code and these Bylaws, the Code shall govern.
- S1.5 The appointment of the Association by the Members as sole and exclusive bargaining agent shall continue, subject to the Code, the Public Sector Employers' Act and the provisions of these Bylaws.
- S1.6 If a Member ceases to be a Member of the Association, its appointment of the Association as its bargaining agent shall be deemed to be revoked.
- S1.7 So long as a Member's appointment of the Association as its bargaining agent has not been revoked as provided in section S1.6, each Member agrees with each other Member and with the Association that it shall not, either directly or indirectly, have any dealings or communication with any union or any official of a union that is the certified bargaining agent for any of its employees in relation to any matter for which the Member has appointed the Association its bargaining agent, and the Directors shall from time to time issue directives to the Members setting forth guidelines in this respect.
- S1.8 Each Member agrees with each other Member and with the Association that it has and will continue to have the authority to appoint the Association as its bargaining agent and to make the agreements contained in this Schedule, that it will not do or omit to do any act or thing that would be or constitute a breach of any of the agreements in this Schedule and that all its covenants in this Schedule shall be enforceable against it by injunction at the instance of the Association or any other Member with the prior written approval of the Association.
- S1.9 In negotiating the local, sectoral and industry-wide issues in any collective agreement, the Association may take whatever action it deems most suitable in the circumstances, including:



- a. appointing as negotiating representatives with respect to any such issues such persons as it deems most suitable in the circumstances, including negotiating representatives appointed where the negotiation of an issue is delegated pursuant to paragraph (b) or (c) below;
- b. delegating to a Member the negotiation of a local issue, and
- c. delegating to a group of Members the negotiation of a sectoral issue;

provided that, for purposes of this Schedule, the term “delegate” means that the Member or group of Members to whom the negotiation of an issue is delegated must at all times throughout such negotiations act in accordance with the wishes of the Association, including taking such steps as are necessary to ensure that the negotiating mandate of the Member or group of Members is approved by the Association, that any proposal made by the Member or group of Members is within the negotiating mandate approved by the Association, that any tentative agreement or settlement is within the negotiating mandate approved by the Association, and that any tentative agreement or settlement is expressly stated to be subject to ratification, execution and approval pursuant to section S1.10 to S1.16 of this Schedule.

- S1.10 An agreement arising out of a negotiation referred to in section S1.9 is neither effective nor binding on the Association nor any of its Members unless first ratified pursuant to section S1.11 to S1.16 by the Member or Members that will be bound by it, and then approved and executed by the Directors of the Association.
- S1.11 The Association shall communicate the terms of a proposed collective agreement to the Members that, if the agreement is ratified, approved and executed as set out in this Bylaw, shall be bound by it.
- S1.12 The ratification of a proposed collective agreement shall be determined by a mail ballot of the Member or Members that, if the agreement is ratified, approved and executed as set out in this Bylaw, shall be bound by it, and such Member or Members shall be the only members entitled to vote.
- S1.13 Each Member entitled to vote on the proposed collective agreement shall have the vote it is entitled to under Bylaw 4.10.
- S1.14 In a vote pursuant to S1.12, a proposed collective agreement shall be deemed to be ratified if approved by the majority of weighted votes cast by the Members voting on the agreement, and, if ratified, approved and executed as set out in this Bylaw, shall be binding on all Members affected by the agreement.
- S1.15 The ballot shall be given to all Members at their registered address either by delivery, telecopy, or double registered mail and, if by mail, the ballot shall be deemed to be received on the 7<sup>th</sup> day after the date of mailing.
- S1.16 In order to be counted, a ballot must be received at the head office of the Association not later than 5:00 p.m. local time in Vancouver on the 15<sup>th</sup> day after the date of delivery, telecopy or deemed receipt by the Member, or within such shorter period as may be determined from time to time by the Directors.

- S1.17 As soon as practicable after a vote pursuant to S1.14 is counted, if the vote is in favour of ratification of the proposed collective agreement, the Directors of the Association must meet to consider whether to approve and execute the proposed collective agreement. The Directors must inform the Member or Members, and the trade union affected, as to whether the proposed collective agreement is approved.
- S1.18 In resolving any dispute arising out of the interpretation, administration or alleged violation of any collective agreement, the Association may take whatever action it considers most suitable in the circumstances, including
- a. delegating to a Member the negotiation of a local issue dispute settlement;
  - b. delegating to a group of Members the negotiation of a component issue dispute settlement, and
  - c. referring the dispute to grievance procedure, arbitration, a mediator or labour relations officer, the Labour Relations Board, any court of competent jurisdiction, or to any other authority provided by law or established by the Association to intervene in the dispute.
- S1.19 A resolution arising out of any negotiations conducted under section S1.18 shall be approved by the Directors of the Association to the extent required by policies established by the Directors from time to time.