



**BC NURSES'  
UNION**

*Standing up for health care*

# CONSTITUTION AND BYLAWS

CURRENT FOLLOWING THE BCNU ANNUAL CONVENTION  
OF *MAY 28-30, 2019*



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## CONSTITUTION

### ARTICLE 1 THE UNION

- 1.01** The union will be known as the British Columbia Nurses' Union (BCNU).
- 1.02** The BCNU head office will be in Burnaby, British Columbia.

### ARTICLE 2 OBJECTIVES

- 2.01** To advance the social, economic and general welfare of all Members.
- 2.02** To regulate relations in British Columbia between the Members and employers through collective bargaining.
- 2.03** To participate in the Nurses' Bargaining Association (NBA) to negotiate a Provincial Collective Agreement (PCA) for the constituent unions.
- 2.04** To negotiate collective agreements for Members at non-NBA bargaining units.
- 2.05** To build relationships with government, employers, and interested parties.

- 2.06** To champion the social determinants of health and the highest standards of safe health care for all.
- 2.07** To promote human rights and equity and strive to eliminate barriers to Members' involvement and inclusion in BCNU activities.
- 2.08** To offer professional development, financial, and other service programs for Members.
- 2.09** To promote and participate in health and benefit plans for Members.
- 2.10** To promote Members' knowledge in matters related to their professional, social, and economic welfare through education and research.
- 2.11** To encourage unity within the nursing profession and other allied fields through communication and cooperation.
- 2.12** To advance the professional profile of nursing.

### ARTICLE 3 AMENDMENTS

- 3.01** Amendments to this Constitution shall be conducted in accordance with Article 6 of the Bylaws.

# BCNU BYLAWS

## ARTICLE 1 MEMBERSHIP

### *Rights and Conditions of Membership*

- 1.01** Eligibility for membership:
- (a) All nurses and allied personnel who are eligible to engage in collective bargaining are eligible for BCNU membership.
  - (b) Allied personnel require a two-thirds (2/3) majority vote of Council to be admitted to membership.
- 1.02** Members will:
- (a) Sign a membership application;
  - (b) Abide by the Constitution and Bylaws;
  - (c) Abide by the Policies and Procedures; and
  - (d) Pay any dues or levies as per Article 9.
- 1.03** Members may (subject to any restrictions under Articles 1.04, 1.05, 1.10, 1.11, 1.12, 1.13, 1.14, or 12):
- (a) Attend Meetings;
  - (b) Hold an Elected Position; and
  - (c) Receive the benefits of BCNU membership.
- 1.04** A Member who is employed by any other NBA union, is not entitled to:
- (a) Attend Meetings;
  - (b) Hold an Elected Position; or
  - (c) Fill a temporary or permanent BCNU Staff position.
- 1.05** A person ceases to be a Member when there is a:
- (a) Suspension or termination of membership pursuant to Article 12; or
  - (b) Failure to pay dues or levies to the BCNU, unless an extension has been granted by the Provincial Executive Committee.
- 1.06** A Member who obtains an employer granted unpaid leave of absence will remain a Member and will pay no dues or levies during the leave.
- 1.07** While on leave from their employer and employed by the BCNU, Members will not pay dues or levies. The BCNU President will continue to pay BCNU dues and levies during their term.
- 1.08** A Member who is laid off by an employer will remain a Member and will not pay dues or levies for the period of the layoff unless in receipt of wages as a Member exercising their collective agreement rights.
- 1.09** A Member who is suspended or terminated by an employer and is exercising their rights under the grievance/arbitration process or other rights appeal language in the appropriate collective agreement will remain a Member and will not pay dues or levies until the grievance, arbitration or appeal is resolved.

### *Member in Good Standing*

- 1.10** Despite the requirements of Article 12, Council, in its sole discretion, may declare, by a two-thirds (2/3) majority vote of Council, that a Member has ceased to be a Member in Good Standing if Council determines that:

- (a) The Member has breached their duty under this Constitution and Bylaws or the Policies and Procedures; and
- (b) For reasons of expediency or otherwise, the requirements of Article 12 cannot reasonably be met at the time of the declaration.

- 1.11** A Member who has ceased to be a Member in Good Standing is not entitled to:
- (a) Attend Meetings; or
  - (b) Stand for election or hold an Elected Position.
- 1.12** Within thirty (30) days of notification of a declaration under Article 1.10, a Member declared no longer a Member in Good Standing may apply to the Chief Executive Officer or designate to request that the Discipline Committee establish a Hearing Board in accordance with Article 12.06 to hear the merits of Council's declaration as if it were a Complaint by Council:
- (a) The Hearing Board may, in addition to its powers and discretion set out in Article 12.07:
    - i. Uphold or set aside Council's declaration; and
    - ii. In the event that the Member is guilty of a breach of duty, impose any penalty that it considers appropriate in the circumstances.
  - (b) Subject to Article 1.10 and this Article, the rights and procedures required under Article 12 and any applicable Policies and Procedures will apply.

### *Affiliate and Student Membership*

- 1.13** Council may create an affiliated class of membership, with criteria, rights, and fees to be outlined in the Policies and Procedures.
- 1.14** Council may create a student class of membership, with criteria, rights, and fees outlined in the Policies and Procedures.
- (a) Employed student members hold the rights and benefits of membership while paying dues for the duration of their employment contract.

### *Members who become BCNU Employees*

- 1.15** A Member filling a temporary Staff position:
- (a) Is eligible to stand for an Elected Position but cannot hold the Elected Position while still being employed in the temporary Staff position;
  - (b) Cannot become a BCNU steward, or must take leave from being a BCNU steward;
  - (c) Cannot attend, as a Member, any Meeting, unless it is in a Staff capacity; and
  - (d) Cannot vote at any BCNU Meeting, other BCNU event or in any BCNU election.
- 1.16** Provincial Executive Officers and Regional Council Members filling a temporary Staff position will take a leave of absence from their Elected Position:
- (a) A leave of absence will not alter the term of office.
- 1.17** Members filling temporary Staff positions will pay union dues to the staff union.
- 1.18** Members hired into permanent BCNU Staff positions will resign their membership in BCNU.

## **ARTICLE 2 PROVINCIAL EXECUTIVE COMMITTEE**

- 2.01** The Provincial Executive Committee will be comprised of the following Officers:
- (a) President;
  - (b) Vice-President;
  - (c) Provincial Treasurer; and
  - (d) Two (2) Executive Councillors.
- 2.02** The Provincial Executive Committee will have the authority to take all actions necessary to implement governing decisions made by Council (or Convention when in session) and to make decisions deemed urgent between Council Meetings.
- 2.03** The Provincial Executive Committee will have such other duties and authority as determined by Council from time to time.
- 2.04** Provincial Executive Officers have authority to take all actions necessary to fulfill their individual officer duties, as outlined in the Policies and Procedures, or to fulfill directions given to them by Council (or the Convention when in session) or the Provincial Executive Committee, whether the directions are given verbally or in writing. Provincial Executive Officer duties include acting as:
- (a) A signing officer for the BCNU; and
  - (b) A director of the BCNU Holding Society.
- 2.05** The Provincial Executive Committee will meet a minimum of eight (8) times per year, or at the call of the President.
- 2.06** The President will call a meeting of the Provincial Executive Committee upon request of three (3) of its Officers.
- 2.07** A quorum of the Provincial Executive Committee will be three-fifths (3/5) of all five (5) members.

## **ARTICLE 3 BCNU COUNCIL**

- 3.01** BCNU Council will be comprised of the following Officers:
- (a) President;
  - (b) Vice-President;
  - (c) Provincial Treasurer;
  - (d) Two (2) Executive Councillors; and
  - (e) Twenty (20) Regional Council Members.
- 3.02** Council will be the governing body of the BCNU when the Annual Convention is not in session.
- 3.03** Council will make decisions and take actions, including those pertaining to collective bargaining, which meet the objectives of the BCNU.
- 3.04** Council may appoint a Chief Executive Officer, Chief Operating Officer, or any other Appointed Officers it considers advisable with duties, terms, conditions, and remuneration as outlined in the Policies and Procedures.
- 3.05** Council will meet a minimum of eight (8) times per calendar year.
- 3.06** A special meeting of Council will be called upon the request of a quorum of Council or at the request of the President.
- 3.07** A quorum of Council will be three-fifths (3/5) of all twenty-five (25) Council Members.

- 3.08** Council may establish committees and working groups.

## **ARTICLE 4 BCNU REGIONS**

- 4.01** The Province will be divided into sixteen (16) regions, with boundaries to be determined by Council.
- 4.02** Each region will elect Regional Council Members as follows:
- |                                |                   |
|--------------------------------|-------------------|
| (a) Central Vancouver          | 2 Council Members |
| (b) Coastal Mountain           | 1 Council Member  |
| (c) East Kootenay              | 1 Council Member  |
| (d) Fraser Valley              | 1 Council Member  |
| (e) North East                 | 1 Council Member  |
| (f) North West                 | 1 Council Member  |
| (g) Okanagan<br>Similkameen    | 1 Council Member  |
| (h) Pacific Rim                | 1 Council Member  |
| (i) Richmond Vancouver         | 1 Council Member  |
| (j) Shaughnessy Heights        | 1 Council Member  |
| (k) Simon Fraser               | 2 Council Members |
| (l) South Fraser Valley        | 2 Council Members |
| (m) South Islands              | 2 Council Members |
| (n) Thompson<br>North Okanagan | 1 Council Member  |
| (o) Vancouver Metro            | 1 Council Member  |
| (p) West Kootenay              | 1 Council Member  |
- 4.03** Regions will have regional bylaws, which are subject to approval by Council, and must include:
- (a) Provisions for the calling of meetings of the region at least three (3) times per year;
  - (b) Provisions for the calling of a special meeting of the region, upon request of five percent (5%) of the regional membership;
  - (c) Provisions for the participation in the annual audit; and
  - (d) Provisions for the election of regional delegates and alternates for Convention, or as otherwise provided in the regional bylaws.
- 4.04** The Constitution and Bylaws will supersede regional bylaws.
- 4.05** Regions will prepare an annual budget which will be submitted to Council for approval.

## **ARTICLE 5 ELECTIONS**

### **Elections**

- 5.01** Every three (3) years, Provincial Executive Officers and Regional Council Members will be elected as follows:
- (a) In the event that there are no more candidates than openings for a given position, such candidate(s) will be deemed acclaimed.
    - i. In the event that there are more candidates than openings for a given position, the candidate receiving the largest number of votes will be declared elected.

- ii. Where there are two openings for a given position, the candidates with the largest and second-largest number of votes will be declared elected.
- (b) Eligible voters:
  - i. Provincial Executive Officers will be elected by Members of the province; and
  - ii. Regional Council Members will be elected by Members of their region.
- (c) Eligibility requirements will be determined by the Annual Convention at least the year prior to the elections but BCNU steward experience must be a requirement.
- (d) The President will declare elected the successful candidate(s) for each position.
- (e) The term of office will be three (3) years, commencing September 1st of the election year.
- (f) An Officer may only hold one (1) officer position at a time.

**5.02** Vacancies of Elected Positions:

- (a) If there is a vacancy in the office of President, the Vice-President will become President;
- (b) If there is a vacancy on the Provincial Executive Committee of less than one (1) year, it will be filled by a Regional Council Member, in a vote by Council, for the remainder of the term;
- (c) If there is a vacancy of a Regional Council Member of less than one (1) year, it will be filled as outlined in the Policies and Procedures; and
- (d) All other vacancies for Provincial Executive Officers or Regional Council Members (not addressed in (a), (b), or (c)), will be filled by having a special election.

**5.03** Election Process:

- (a) The nomination period, campaign period, and election period for the Provincial Executive Committee and Regional Council Members will be determined by the Nominations Committee and approved by Council.
- (b) The Chief Executive Officer, or designate, will forward a list of nominees for each position to all Members.
- (c) A vote will be undertaken by the BCNU, within the timelines approved by Council.

**Nominations Committee**

**5.04** In the year prior to the elections for the Provincial Executive Officers and Regional Council Members, a five (5) Member Nominations Committee will be elected by delegates at the Annual Convention:

- (a) If there are only five (5) candidates, the candidates will be deemed acclaimed to the Nominations Committee. If there are more than five (5) candidates, the five (5) candidates who receive the largest number of votes will be declared elected.
- (b) The term of office for Members of the Nominations Committee will be three (3) years, commencing September 1st.

- (c) Candidates for the Nominations Committee:
  - i. Must be a Member in Good Standing;
  - ii. May be a steward; and
  - iii. Must not hold a position as Provincial Executive Officer or Regional Council Member, regional executive Member, full-time steward, enhanced disability management rep, or regional steward-at-large.
- (d) Should a Nominations Committee member wish to run for the positions described in Article 5.04(c) (iii), they must step down from their role on the Nominations Committee.
- (e) If there is a vacancy on the Nominations Committee, it will be filled, at the request of the Nominations Committee, by an election at the next Annual Convention for the balance of the term.

**5.05** The responsibilities of the Nominations Committee will include:

- (a) To determine eligibility of all candidates for the Provincial Executive Committee and for Regional Council Members.
- (b) To implement the procedure for obtaining nominations for the offices of the Provincial Executive Committee and for Regional Council Members.
- (c) To advertise, prior to close of nominations, for candidate(s) for any office for which no nomination has been received.
- (d) To prepare and present the ticket of nominations for the offices of the Provincial Executive Committee and for Regional Council Members to the President and Chief Executive Officer.
- (e) To establish candidate responsibilities and rules governing election campaigns.
- (f) To conduct and oversee the election and report the results of the election to the President.
- (g) To establish rules and procedures concerning the filing, receipt, investigation, resolution, determination and remedying of any complaints from Members regarding an election process (Election Complaints), subject to the approval of Council.
- (h) To receive and investigate Election Complaints from Members.
- (i) To resolve any Election Complaints received, as the Nominations Committee considers appropriate.
- (j) To determine, upon investigation of an Election Complaint, whether there has been a breach of applicable rules or responsibilities and, if so, to determine an appropriate remedy.
- (k) To attend, as provincially funded observers, at any Convention.

**5.06** The investigation, resolution, determination and remedying of Election Complaints will be conducted in accordance with the applicable rules and procedures set out in the Policies and Procedures as adopted by Council.

**5.07** All decisions and determinations of the Nominations Committee regarding candidate eligibility or Election

Complaints are within the Nomination Committee's sole discretion, and will be final and binding.

## **ARTICLE 6 PARLIAMENTARY PROCEDURE**

- 6.01** The rules of procedure and order of business at Meetings will be governed by Robert's Rules of Order Newly Revised, unless inconsistent with the Constitution and Bylaws.
- 6.02** Accidental omission or non-receipt of notice for any Meeting will not invalidate the proceedings of the Meeting.
- 6.03** The Constitution and Bylaws may be amended by a two-thirds (2/3) majority vote at any Convention:
- (a) Notice of amendments will be given to the membership at least thirty (30) days prior to the Convention;
  - (b) Member proposed amendments will be submitted to the BCNU sixteen (16) weeks in advance of the first day of the Convention;
  - (c) Council or Bylaws Committee proposed amendments will be submitted twelve (12) weeks in advance of the first day of the Convention; and
  - (d) Amendments will come into effect immediately upon the adjournment of the Convention in which they were adopted.
- 6.04** There will be a Bylaws Committee, with a composition and duties to be approved by Council.

## **ARTICLE 7 COLLECTIVE BARGAINING**

- 7.01** Collective bargaining functions of Council (when the Convention is not in session) include:
- (a) Providing advice, objectives, strategies, priorities, and process frameworks to regional bargaining conferences, provincial bargaining conferences and bargaining committee representatives; and
  - (b) Pre-approving and authorizing collective bargaining action.
- 7.02** The Chief Executive Officer, or designate, will be the spokesperson for all bargaining committees.
- 7.03** Council will determine the methods used to gather bargaining proposals.
- 7.04** Regional bargaining conferences:
- (a) Will be held prior to the provincial bargaining conference; and
  - (b) At least one (1) Member will be allowed to attend from each worksite.
- 7.05** Provincial bargaining conference:
- (a) Will be held prior to start of collective bargaining;
  - (b) Regional delegates and alternates will be allocated based on the formula used for the Convention;
  - (c) Council Members will be voting delegates, as will regional delegates referred to in (b);
  - (d) Two-thirds (2/3) of the voting delegates will form quorum; and
  - (e) Council will appoint the following at each provincial bargaining conference:

- i. At least three (3) Members to act as scrutineers;
- ii. At least three (3) Members to act as sergeant-at-arms; and
- iii. Provincially funded observers.

- 7.06** The BCNU's representatives on the NBA bargaining committee will be:
- (a) The President
  - (b) Member representative one (1) from long term care
  - (c) Member representatives two (2) from community care
  - (d) Member representatives two (2) from large acute care facilities with 701 or more Members
  - (e) Member representative one (1) from medium acute care facilities with 201 to 700 Members
  - (f) Member representative one (1) from small acute care facilities with 200 or fewer Members
  - (g) Designated Staff
- 7.07** All Member representatives of the NBA bargaining committee will be elected by delegates of the provincial bargaining conference.
- 7.08** The Provincial Treasurer, Vice-President, and Executive Councillors are ineligible to stand for election as a Member representative of a bargaining committee.
- 7.09** Council has the authority to:
- (a) Determine when to poll and communicate with Members about bargaining;
  - (b) Determine whether or not a bargaining conference will be held prior to the commencement of collective bargaining, notwithstanding any other provision of these Constitution and Bylaws;
  - (c) Approve settlements that clarify or vary the terms of collective agreements; and
  - (d) Direct whether a ratification vote should occur in affected bargaining unit(s), pertaining to (c) above, despite such a vote not being required by any other provision of these Constitution and Bylaws.
- 7.10** The BCNU will conduct a ratification vote in affected bargaining unit(s) on the proposed terms and conditions for any negotiated collective agreement.
- 7.11** Non-NBA bargaining units:
- (a) Will have meetings of their Members regarding proposed contract changes to their collective agreement;
  - (b) Will select a bargaining committee; and
  - (c) The composition of bargaining committees may be determined by Council.

## **ARTICLE 8 CONVENTIONS**

- 8.01** Conventions of the BCNU will be called by Council.
- 8.02** Annual Convention:
- (a) The date and time of the Annual Convention will be determined by Council.
  - (b) While in session, the Annual Convention will be the governing body of the BCNU.

- (c) The Annual Convention will make decisions and take actions to further the strategic directions of the BCNU.

**8.03** Special Convention:

- (a) The Council may call a Special Convention at any time.
- (b) The Council will call a Special Convention upon written request which:
  - i. Is signed by at least five percent (5%) of Members in each of at least fifty percent (50%) of the BCNU regions listed in Article 4.02; and
  - ii. States the sole purpose for which the Special Convention is requested.

**8.04** Notice of Conventions will be communicated to Members as follows:

- (a) At least thirty (30) days before the start of the Annual Conventions, the notice, agenda, proposed resolutions, proposed Constitution and Bylaw amendments, and any other business to be deliberated will be published.
- (b) At least fourteen (14) days before the start of a Special Convention, a notice will be published specifying the purpose of the Special Convention.

**8.05** Convention Delegates:

- (a) The Convention delegates will be:
  - i. All Council Members;
  - ii. Delegates of the four (4) Human Rights and Equity-seeking caucuses who have been elected at their respective provincial caucus Meetings; and
  - iii. Regional delegates and alternates, determined as per the table below:

Regional Membership	Delegates	Alternates
800 or fewer	12	2
801 - 1200	14	2
1201 - 1600	16	2
1601 - 2000	18	2
2001 - 2400	20	2
2401 - 2800	22	2
2801 - 3000	24	2
3001 - 3200	26	2
3201 - 3400	28	4
3401 - 3600	30	4
3601 or greater	32	4

**8.06** Voting Body of Convention:

- (a) The Convention delegates listed in 8.05(a) above make up the voting body:
  - i. Each delegate and Council Member will have one (1) vote; and
  - ii. Votes are not transferable to others.

- (b) Two-thirds (2/3) of the voting body will form quorum.

- (c) Members in Good Standing who are not part of the voting body may attend and may speak but will not be entitled to make motions or vote.

**8.07** Council will appoint the following at Conventions:

- (a) At least three (3) Members to act as scrutineers;
- (b) At least three (3) Members to act as sergeant-at-arms; and
- (c) Provincially funded observers.

**8.08** The minutes of Convention will be approved by Council.

**ARTICLE 9 DUES AND LEVIES**

**9.01** Dues payable may be amended at an Annual Convention by a two-thirds (2/3) majority vote of the Convention delegates.

**9.02** Dues will be remitted to the BCNU head office.

**9.03** Upon expiration of the PCA, Council may impose a dues increase to be used for Defence Fund payments:

- (a) The motion will pass with a four-fifths (4/5) majority vote of all twenty-five (25) Members of Council;
- (b) The maximum allowable increase will be one-half of one percent (0.50%) of a Member's gross wages;
- (c) The duration of the increase will remain in effect until ninety (90) days subsequent to the ratification of a new collective agreement; and
- (d) Any funds remaining at the end of the ninety (90) days will be permanently placed into the Defence Fund.

**9.04** Council may impose a levy for some or all of the Members to replenish the Defence Fund:

- (a) The motion will pass with a four-fifths (4/5) majority vote of all twenty-five (25) Members of Council;
- (b) The maximum allowable increase will be one-quarter of one percent (0.25%) of a Member's gross wages; and
- (c) The increase will remain in effect until the Defence Fund is replenished to the Maximum Defence Fund Level, as outlined in the Policies and Procedures, or until the close of the next Annual Convention.

**9.05** To attain other objectives of the BCNU, any Convention may impose a levy for some or all Members with a two-thirds (2/3) majority vote. Such a levy will be paid by Members, as designated by the Convention.

**9.06** Any dues or levies of the BCNU are debts due, owing and payable to the BCNU by the Member within the time specified by the BCNU and is recoverable, along with all associated expenses, costs and legal fees by legal action.

**ARTICLE 10 FINANCE**

**10.01** There will be a Finance Committee, chaired by the Provincial Treasurer, with composition and duties to be approved by Council.

**10.02** The fiscal year will end on December 31st.

**10.03** Each Annual Convention will appoint a certified professional accountancy firm to act as the external

auditor and to remain in effect until the close of the following Annual Convention.

**10.04** Council may appoint additional signing officers of the BCNU.

## **ARTICLE 11 POLICIES AND PROCEDURES**

**11.01** Council may, in furtherance of the BCNU's goals and objectives, formulate and adopt principles, procedures, rules, and guidelines, as incorporated in the BCNU's policies and procedures manual (Policies and Procedures).

**11.02** All Members are expected to comply with the Policies and Procedures as approved by Council.

**11.03** The Policies and Procedures are to be interpreted in a manner consistent with the Constitution and Bylaws. In the case of a conflict, the Constitution and Bylaws supersedes the Policies and Procedures.

## **ARTICLE 12 DISCIPLINE**

**12.01** Preamble:

- (a) Members are expected to fulfill certain responsibilities and obligations, including but not limited to, complying with the Constitution and Bylaws and the Policies and Procedures. Improper conduct by Members can result in damage to the integrity and reputation of the BCNU and can create conflict and discord amongst the membership. Conduct that constitutes a breach of duty by Members may be subject to discipline.
- (b) The BCNU is committed to providing an environment characterized by open and clear communication, honesty, procedural fairness, transparency, neutrality, and mutual respect. The BCNU provides Members with the process and rights outlined in the Constitution and Bylaws and the Policies and Procedures so that Complaints are handled fairly, expeditiously, and affordably.
- (c) The BCNU is committed to assisting Members to resolve Complaints through alternative dispute resolution, where appropriate.
- (d) It is the intention of this Article to encourage the development of mutual respect between Members. To this end it is important that Members exercise their rights responsibly and with respect for others, and so contribute to the orderly running of the organization.

**12.02** Discipline Restricted:

- (a) The BCNU will not impose any discipline pursuant to this Article except for a breach of duty under the Constitution and Bylaws or the Policies and Procedures.
- (b) Every Member subject to discipline pursuant to this Article is entitled to a fair hearing in accordance with the principles of natural justice and procedural fairness.

**12.03** Breach of Duty:

- (a) A Member commits a breach of duty where they:
  - i. Violate any provision of the Constitution and Bylaws or the Policies and Procedures;

- ii. Act in any manner that constitutes a breach of duty as outlined in the Policies and Procedures; or
- iii. Act in any manner which jeopardizes the advancement of the purposes or welfare of the BCNU or that could discredit the reputation or integrity of the BCNU or harm its membership.

**12.04** Complaints:

- (a) Any Member may make a Complaint against another Member for an alleged breach of duty as defined in Article 12.03.
- (b) A Complaint must be sent in writing by the Complainant to the Chief Executive Officer using the Complaint Form (adopted as such by Council) within sixty (60) days after the Complainant knows of or can reasonably be expected to know of the events upon which the Complaint is based.
- (c) Within fourteen (14) days of receiving a Complaint, the Chief Executive Officer, or designate, will provide the Respondent with the particulars of the Complaint in person or by registered mail to the address shown in the register of Members.
- (d) The Chief Executive Officer, or designate, will consider the merits of the Complaint, for the purpose of determining, in their sole discretion, whether it is appropriate to initiate an early alternative dispute resolution process.
- (e) All decisions of the Chief Executive Officer, or designate, to initiate or not initiate the early alternative dispute resolution process will be final and binding.
- (f) Where a matter is determined to be suitable for an early alternative dispute resolution process, the Chief Executive Officer, or designate, will appoint a Neutral Third Party to assist the parties in resolving the dispute.
- (g) If the Neutral Third Party determines that attempts at consensual resolution have been unsuccessful, they will advise the Chief Executive Officer, or designate, and the matter will be referred to the Complaints Investigation Committee under Article 12.05.

**12.05** Complaints Investigation Committee and Complaints Investigation Sub-Committee:

- (a) There will be a standing Complaints Investigation Committee comprised of the Vice-President, and one (1) Member elected from each region.
- (b) The investigation and referral of Complaints will be conducted in accordance with the Policies and Procedures.
- (c) All Complaints filed pursuant to Article 12.04(a), except those where an early dispute resolution process is being attempted pursuant to Article 12.04(f), will be referred to a Complaints Investigation Sub-Committee established to investigate the Complaint(s).
- (d) The Complaints Investigation Sub-Committee will investigate the Complaint and, where possible,



within ninety (90) days of receiving the Complaint, either:

- i. dismiss the Complaint if it is without merit, or
  - ii. refer the Complaint, or any part of it, to the Discipline Committee.
- (e) The Complaints Investigation Sub-Committee will notify the Chief Executive Officer and the parties of its decision.
- (f) While discharging its functions under subsection (d) above, the Complaints Investigation Sub-Committee will, subject to applicable rules and procedures, determine its own process and will have the power and discretion to:
- i. Convene a settlement conference and assist to negotiate a settlement between the parties;
  - ii. Request that a Neutral Third Party be appointed to mediate a settlement; or
  - iii. Require the Complainant, the Respondent, or any other Member who may have information relevant to the investigation of the Complaint:
    1. To communicate with and provide information to the Committee;
    2. To produce to the Committee potentially relevant documents; and
    3. To attend at meetings convened by the Committee.
- (g) All decisions of the Complaints Investigation Sub-Committee, including a decision with respect to the referral of a Complaint to the Discipline Committee, will be final and binding.
- (h) If a Member of the Complaints Investigation Sub-Committee is participating in an investigation of a Complaint at the time their term expires, the Member will retain jurisdiction concerning the Complaint until the process under this Article 12.05 is completed.
- (i) If a Member of the Complaints Investigation Committee is the subject of a Complaint, Council will appoint the Members of the Complaints Investigation Sub-Committee.

#### **12.06** Discipline Committee:

- (a) There will be a standing Discipline Committee comprised of the Provincial Treasurer and one (1) Member elected from each region.
- (b) The hearing and determination of Complaints and retention of records will be conducted in accordance with the Policies and Procedures.
- (c) The Discipline Committee will have the power and discretion to:
  - i. Establish a Hearing Board and refer a Complaint to the Hearing Board; and
  - ii. Direct that any number of Complaints be heard by the same or multiple Hearing Boards.
- (d) While discharging its functions under subsection (c) above, the Discipline Committee will, subject to applicable rules and procedures, determine its own process.

- (e) If a Member of the standing Discipline Committee is the subject of a Complaint, Council will appoint the Members of the Hearing Board.

#### **12.07** Discipline Committee Hearing:

- (a) The Hearing Board convened to hear a Complaint will, subject to applicable rules and procedures, have the power and discretion to:
  - i. Determine its process, which will ensure a fair hearing and be consistent with the Constitution and Bylaws and the Policies and Procedures.
  - ii. Grant adjournments of the Hearing before commencement or during the Hearing upon conditions it considers appropriate.
  - iii. If the Hearing Board has been directed to hear more than one Complaint it will decide which, if any, of the Complaints will be heard at the same time.
  - iv. Receive and accept such evidence or information on the promise of the witness to tell the truth, or on affidavit or otherwise as it considers proper whether or not the evidence would be admissible in a court.
  - v. Make a determination having regard to the real substance of the Complaint and without being bound by previous decisions or by a strict legal interpretation of any issue.
  - vi. Order Members to appear as witnesses, upon the reasonable request of either the Respondent or the Complainant, or after hearing the evidence called by the parties, on its own motion.
  - vii. Order Members to produce potentially relevant documents, in the manner it deems fit.
  - viii. Upon conclusion of the Hearing, decide whether the Respondent is guilty or not guilty of any breach of duty referenced in the Complaint(s).
  - ix. If the Respondent is found guilty of any breach of duty, impose a penalty which may include:
    1. a reprimand;
    2. a fine;
    3. terms on continued membership or return to membership;
    4. suspension or termination of membership; or
    5. any other penalty it considers appropriate in the circumstances.
  - x. At any time following receipt of a Complaint and pending the disposition of the Complaint, suspend from membership any Respondent and suspend from any BCNU office or position any Respondent or permit the continuation of membership or office or position with or without terms.
- (b) Any fine which a Member owes to the BCNU is a debt due, owing and payable to the BCNU by the Member within the time specified by the BCNU and

is recoverable, along with all associated expenses, costs and legal fees, by legal action.

- (c) If a Member of the standing Discipline Committee is participating in a Hearing Board at the time their term on the Committee expires, the Member will retain jurisdiction until the proceedings under this Article 12.07 are completed.

#### **12.08 Appeals:**

- (a) Within thirty (30) days of notification of the Hearing Board's decision, the Respondent or the Complainant may submit an appeal of the decision, in writing, on one or more of the following grounds:
  - i. The decision or penalty imposed by the Hearing Board was patently unreasonable in all the circumstances;
  - ii. The Hearing Board failed to observe the principles of natural justice in making its determination; or
  - iii. New evidence has become available that was not available at the time the Hearing Board made its determination.
- (b) An appeal will be heard by an Appeal Board to be established in accordance with the applicable rules and procedures set out in the Policies and Procedures.
- (c) All appeals will be conducted in accordance with the Policies and Procedures.
- (d) The Appeal Board will have the power and discretion to:
  - i. Uphold or set aside any decision or penalty, or part of any decision or penalty, imposed by the Hearing Board; and
  - ii. If the result of the appeal is a decision that the Respondent is guilty of a breach of duty, impose a penalty that it considers appropriate in the circumstances.
- (e) The BCNU, individuals holding Elected Positions, other BCNU representatives and Members are not liable for any damages suffered by a Member because of a penalty imposed on that Member by a Hearing Board and later set aside on appeal to an Appeal Board or to any other court or tribunal.

#### **12.09 Costs of Disciplinary Proceedings:**

- (a) The BCNU will pay all reasonable and necessary costs of disciplinary proceedings, including the reasonable and necessary expenses incurred by the parties to the proceedings, excluding legal fees.

#### **12.10 Extension of Time Limits:**

- (a) The Chief Executive Officer, or designate, may extend any of the time limits in this Article at their sole discretion.

### **ARTICLE 13 EXHAUSTION OF INTERNAL REMEDIES**

**13.01** No Member will commence any proceeding in a court or tribunal against the Union, any individual holding an Elected Position, any other BCNU representative or any Member, in any matter concerning a Complaint or any affairs of the BCNU unless the Member has

commenced any proceeding available to the Member under the Constitution or Bylaws that may apply to the matter within the time permitted under the Constitution and Bylaws and six (6) months have passed since the commencement of the first proceeding available to the Member under the Constitution and Bylaws.

**13.02** Despite Article 13.01, where a Member commences any proceeding in a court or tribunal against the BCNU, any individual holding an Elected Position, any other BCNU representative or any Member in any matter concerning a Complaint or any affairs of the BCNU without first exhausting the BCNU's internal remedies as set out in Article 13.01, the BCNU, any individual holding an Elected Position, any other BCNU representative or any Member who is a respondent to the external proceeding, will have the right to commence or continue any internal proceedings.

### **ARTICLE 14 DEFINITIONS**

**14.01** In the Constitution and Bylaws:

- (a) "Appeal Board" will mean a board established under Article 12.08.
- (b) "Appointed Officer" will mean a BCNU employee appointed by Council and tasked with generally managing the affairs of the BCNU and may include a Chief Executive Officer (CEO) and a Chief Operating Officer (COO).
- (c) "Bylaws Committee" means the standing committee created pursuant to Article 6.04.
- (d) "Chief Executive Officer", where referenced in Articles 1, 5, 7 and 12 of the Bylaws, will mean the Chief Executive Officer appointed by Council or such other Appointed Officer as may be designated by Council.
- (e) "Complainant" will mean a Member who makes a complaint against another Member under Article 12.
- (f) "Complaint" will mean a complaint pursuant to Article 12.04(a).
- (g) "Complaint Form" is the form adopted by Council as the official complaint form.
- (h) "Complaints Investigation Committee" will mean the standing committee established under Article 12.05(a).
- (i) "Complaints Investigation Sub-Committee" will mean a sub-committee established by the standing Complaints Investigation Committee under Article 12.05(c).
- (j) "Constitution and Bylaws" means the constitution and bylaws of the BCNU as adopted and amended by voting delegates of the BCNU at Convention.
- (k) "Convention" will mean an assembly of delegates and Members of the BCNU in accordance with Article 8.
- (l) "Council" will mean the Council of BCNU in accordance with Article 3.
- (m) "Defence Fund" will mean a fund that BCNU maintains to enable the BCNU to support Members during job action and to achieve a collective agreement. Council may determine the activities

- for which the fund will be used and conditions for which Members may be entitled to benefit claims, as stipulated in the Policies and Procedures.
- (n) “Discipline Committee” will mean the standing committee established under 12.06(a).
  - (o) “Officer” will mean any officer that is elected on Council (Provincial Executive Officers and Regional Council Members).
  - (p) “Election Complaint” means a complaint from a Member regarding an election process, which must be made to the Nominations Committee.
  - (q) “Elected Position” will mean Officers and all other elected positions, such as all elected Committee Members (Nominations Committee, Bargaining Committee, etc.).
  - (r) “Finance Committee” means the standing committee created pursuant to Article 10.01.
  - (s) “Hearing” or “Discipline Committee Hearing” will mean a hearing established under Article 12.07.
  - (t) “Hearing Board” will mean a board established by the Discipline Committee to hear matters referred to the Discipline Committee in accordance with Article 1.12 or Article 12.
  - (u) “Maximum Defence Fund Level” will mean the maximum level for the Defence Fund as determined by Council and stipulated in the Policies and Procedures.
  - (v) “Meeting” will mean any meeting, conference, task force, committee or Convention of Members but does not include educational workshops or training aimed at nursing skills or nursing-related issues.
  - (w) “Member” when used without qualification will mean a person who qualifies under Article 1 but excludes members of an affiliated or student class of membership created by Council.
  - (x) “Member in Good Standing” means a Member who:
    - i. Has paid all dues and levies owed by that Member to the BCNU pursuant to Article 9;
    - ii. Has paid all fines owed by the Member to the BCNU pursuant to Article 12;
    - iii. Has paid all other debts owed by the Member to the BCNU; and
    - iv. Has not been declared by Council, a Hearing Board or an Appeal Board to have ceased to be a Member in Good Standing, pursuant to Articles 1.10 or 12.
  - (y) “NBA” means the Nurses’ Bargaining Association.
  - (z) “Neutral Third Party” means an individual who is not a Member, whose purpose is to assist the parties in attempting to negotiate a consensual resolution of a Complaint. This could include but is not necessarily limited to an ombudsperson, mediator or other third party.
  - (aa) “Nominations Committee” means the standing committee created pursuant to Article 5.04.
  - (bb) “PCA” will mean the NBA Provincial Collective Agreement and includes provincially imposed language.
  - (cc) “Policies and Procedures” will mean the principles, procedures, rules, and guidelines formulated and adopted by Council to promote the BCNU’s goals and objectives, as incorporated in the BCNU’s policies and procedures manual, as approved by Council.
  - (dd) “Provincial Executive Officer” means the President, Vice President, Provincial Treasurer and Executive Councillors, who comprise the Provincial Executive Committee pursuant to Article 2.01 and are elected in accordance with Article 5.01.
  - (ee) “Regional Council Members” means the members of Council elected to serve on Council by their respective regions in accordance with Articles 4.02 and 5.01.
  - (ff) “Respondent” will mean a Member who is the subject of a Complaint under Article 12.
  - (gg) “Special Convention” means a Convention that is not an Annual Convention and is called by Council in accordance with Article 8.03.
  - (hh) “Staff” means a person who is engaged in an occupation in the service of the BCNU and includes employees within the BCNU staff bargaining units and excluded personnel.



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