

RESOLUTION

Because HSA is committed to applying a decolonial lens to its policies and practices; HSA will replace instances of the word “chief” in the constitution to the word “lead” as follows.

BACKGROUND

Amendments to the constitution to replace the word “chief” with the word “lead”, in keeping with the will of convention to decolonize language in the union’s constitution, and to reflect language in the collective agreements.

EXISTING LANGUAGE

Article 7 – Convention
Section 5. Delegate Status at Convention

(a) Representation shall be based on the following:
Chapters with up to and including 49 members shall be entitled to one delegate who shall be the Chief Steward or their Alternate. Chapters with over 49 members will be entitled to one additional delegate for each additional 50 members or portion thereof.

(c) The Chief Steward shall call a Chapter meeting to elect the delegate(s) and shall advertise it in order to provide sufficient notice for members to attend. The meeting should take place not less than six weeks prior to the Convention.

Article 9 – President
Section 6. Duties of the President
(b) Is the chief representative of the Union in relations with labour centrals, other unions, and professional associations, (except with respect to collective bargaining) and is the senior delegate of the Union to labour movement meetings, conferences and conventions.

(e) Is the Chief Executive Officer of the Union.

PROPOSED LANGUAGE

Article 7 – Convention
Section 5. Delegate Status at Convention

(a) Representation shall be based on the following:
Chapters with up to and including 49 members shall be entitled to one delegate who shall be the **Lead** Steward or their Alternate. Chapters with over 49 members will be entitled to one additional delegate for each additional 50 members or portion thereof.

(c) The **Lead** Steward shall call a Chapter meeting to elect the delegate(s) and shall advertise it in order to provide sufficient notice for members to attend. The meeting should take place not less than six weeks prior to the Convention.

Article 9 – President
Section 6. Duties of the President
(b) Is the **lead** representative of the Union in relations with labour centrals, other unions, and professional associations, (except with respect to collective bargaining) and is the senior delegate of the Union to labour movement meetings, conferences and conventions.

(e) Is the **Lead** Executive Officer of the Union.

RESOLUTION

Because Article 8, Section 10 (b) of the HSA Constitution is ambiguous about who is subject to conditions established by the board of directors for receiving job action pay, HSA will amend Article 8, section 10 (b).

BACKGROUND

Housekeeping amendment to remove ambiguity, and provide clarity that the Board of Directors has authority to set job action pay for all members, and not just members of the Board of Directors.

EXISTING LANGUAGE

Article 8 – Board of Directors
Section 10. Board of Directors Authority
During Job Action

(b) To establish conditions for receiving job action pay, which may include a requirement to perform and amount of picket or alternate duty.

PROPOSED LANGUAGE

Article 8 – Board of Directors
Section 10. Board of Directors Authority During
Job Action

(b) To establish conditions for **members** receiving job action pay, which may include a requirement to perform and amount of picket or alternate duty.

RESOLUTION

Because delegates to the 2023 HSA Convention called on the union’s Board of Directors to present constitutional language changes in a resolution to the 2024 Convention to address establishing an equitable process for determining how unfilled delegate seats will be awarded.

HSA will amend Article 7, Section 5 (e) of the HSA constitution.

BACKGROUND

2023 HSA Convention Resolution #53 called for the Board of Directors to propose constitutional change to allow for unfilled chapter delegate entitlements to be transferred between chapters.

The proposed language allows for inter-chapter transfer of delegate entitlements.

2023 RESOLUTION #53:

THEREFORE BE IT RESOLVED: When registration for Convention (annual or special) closes, Health Sciences Association (“HSA”) will identify the number of unfilled potential delegate seats within each Region.

BE IT FURTHER RESOLVED: That the HSA Board of Directors establish an equitable process for determining how unfilled delegate seats will be awarded and present the constitutional language changes in a resolution to the 2024 Convention.

EXISTING LANGUAGE

Chapters that have elected their complete delegate entitlement can elect up to two additional members as alternates in the event that a (the) registered delegate(s) is (are) unable to attend.

PROPOSED LANGUAGE

Chapters that have elected their complete delegate entitlement can elect up to two additional members as alternates in the event that a (the) registered delegate(s) is (are) unable to attend.
Alternates may also be selected to fill unfilled delegate seats within their region.

RESOLUTION

Because Article 6, Section 7 of the HSA Constitution does not reflect the protected grounds under Section 14 of the Human Rights Code of BC;

HSA will replace Article 6 Section 7 of the HSA constitution with the following.

BACKGROUND

Update to reflect protected grounds as defined by the Human Rights Code of BC, with the addition of socio-economic status (which is not a protected ground under the Human Rights Code).

EXISTING LANGUAGE

Section 7. No Discrimination

(a) The rights and benefits of the Union are conferred on each member, without discrimination on the basis of sex, gender identity, gender expression, age, race, colour, religious affiliation, national or ethnic origin, disability, sexual orientation, political belief, socio-economic, marital or family status.

PROPOSED LANGUAGE

Section 7. No Discrimination

(a) The rights and benefits of the Union are conferred on each member, without discrimination on the basis of **indigenous identity, race, colour, ancestry, place of origin, political belief, religion, marital status, family, or socio-economic status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or member, or because that member has been convicted of a criminal or summary conviction offence that is unrelated to the membership or intended membership.**

RATIONALE

Because the HSA Constitution lacks clarity on the Board of Directors' authority to impose discipline or restrictions on a Regional Director related to misconduct in their role as a Regional Director;

HSA will add the following to Article 8 – Board of Directors.

BACKGROUND

The current constitution is silent on the authority of the Board of Directors to impose restrictions on any board member found to have engaged in misconduct.

The amendment gives the board authority to restrict participation by a board member after undergoing a fair process.

EXISTING LANGUAGE

Article 8 – Board of Directors

Section 1. Powers

The Board of Directors is the supreme governing body of the Union when the Convention is not in session, subject to the provisions of the Constitution

PROPOSED LANGUAGE

Article 8 – Board of Directors

Section 1. Powers

The Board of Directors is the supreme governing body of the Union when the Convention is not in session, subject to the provisions of the Constitution.

The Board of Directors shall determine its own rules and procedures. Without limiting the generality of the foregoing and, notwithstanding any other provision in this Constitution, the Board of Directors may, by a two-thirds majority or greater:

- (a) prohibit a Regional Director from attending meetings of the Board of Directors due to misconduct;**
- (b) suspend a Regional Director from office for a period of 3 months due to misconduct;**
- (c) place conditions and/or restrictions on a Regional Director's ability to communicate directly, interact with, or attend meetings with Union staff; and**
- (d) place conditions and/or restrictions on a Regional Director's ability to communicate directly, interact with, or attend meetings with members.**

Prior to conducting a vote pursuant to this Section, the Board of Directors shall notify the Regional Director in writing at least 14 days in advance of the meeting at which the vote will be taken and the Regional Director must be given an opportunity to make representation to the Board of Directors in respect of the allegations against them, and of the proposed motion.

In this section, “misconduct” includes but is not limited to the following:

(a) A complaint filed under Article 15 which has been deemed by an Investigator who was appointed under Article 15, Section 5 to have merit to proceed to trial, and poses a potential legal liability to the Union if no action is taken.

(b) Failure to take the Oath of Office in verbal and written form within one month following the Annual Convention or of being appointed or elected, as per Article 8, Section 11 to their position.

Where a Regional Director is prohibited from attending a meeting of the Board of Directors, or is suspended from office, the Regional Director’s alternate, as per Article 10, Section 5, shall attend in their place.

Subject to any applicable laws such as the BC Labour Relations Code, a motion passed by the Board of Directors under this Article is final.

RATIONALE

Because: Delegates to the 2023 HSA Convention directed the union’s Board of Directors to present proposed constitutional language for delegates to the 2024 (convention) to vote on to allow for membership-wide online voting during the election of president at convention.

BACKGROUND

2023 Resolution #55 called on the Board of Directors to proposed constitutional language to allow for one member, one vote for election of the union’s president.

The proposed changes include consequential amendments to the article regarding recall of the President and reflects the same standard of recall for Regional Directors.

2023 RESOLUTION #55

THEREFORE BE IT RESOLVED: That the presidential election be moved to an online format following the commencement of Convention in order to allow for 1 member 1 vote. The online system could allow presidential candidate information and recordings of debates at convention to be posted and viewed by all members.

EXISTING LANGUAGE

Section 1. Term of Office of President
 The term of office is two years. The President is elected at the Annual Convention in odd numbered years.

Section 2. Nomination of President
 (a) To be eligible, nominees must have been a member of the Union for at least one year immediately prior to election.
 (b) Any six members may nominate any other member to seek election as President. This nomination shall be in writing, signed by all six nominators, and must be accompanied by a written consent signed by the nominee.
 (c) If the nomination, together with a suitable black and white photograph and a statement of not more than 400 words is received by the head office 60 days or more before the Convention, the statement and photograph will be published in the Annual Report.
 (d) After the Convention is convened, nominations may be delivered to the Chair of the Election Committee or designate until the final call for nominations.

PROPOSED LANGUAGE

Section 1. Term of Office of President
 The term of office is two years. The President is elected **by all members in good standing during** the union’s Annual Convention in odd numbered years.

Section 2. Nomination of President
 (a) To be eligible, nominees must have been a member **in good standing** of the Union for at least one year immediately prior to election.
 (b) Any six members **in good standing** may nominate any other member to seek election as President. This nomination shall be in writing, signed by all six nominators, and must be accompanied by a written consent signed by the nominee.
 (c) If the nomination, together with a **head and shoulders photo** and a statement of not more than 400 words is received by the head office 60 days or more before the Convention, the statement and photograph will be published in the Annual Report.
 (d) After the Convention is convened, nominations may be delivered to the Chair of the Election Committee or designate until the final call for nominations.

Section 3. Election of the President

- (a) The election of the President is by secret ballot and requires a majority vote: that is, over 50 percent of those delegates voting.
- (b) If no candidate gets more than 50 percent, then the candidate receiving the least number of votes and any candidate receiving less than 5% of the votes is dropped from the ballot and a new ballot is cast.
- (c) In event that there is only one candidate, the ballots shall be dispensed with and the presiding officer at the Convention shall declare that candidate elected.
- (d) The outgoing President shall complete a two-week paid transition period with the new President.

Section 4. Vacancies

If there is a vacancy in the office of President, the Vice-President shall become President until the next Annual Convention where the vacant position will be filled by regular election or by election to finish the term.

Section 5. Recall of the President

- (a) A motion to recall the President is in order at a Special Convention, if notice is contained in the convention petition or call.
- (b) A resolution to recall the President is in order at an Annual Convention.
- (c) Either (a) or (b) above requires a two-thirds majority vote of those voting in order to pass.

Section 3. Election of the President

- (a) The election of the President is by secret ballot and requires a majority vote: that is, over 50 percent of those **members** voting.
- (b) Every member in good standing has an opportunity to participate in the vote, which shall be by electronic balloting. The union will provide all members notice of the voting period.**
- (c) If no candidate gets more than 50 percent, then the candidate receiving the least number of votes and any candidate receiving less than 5% of the votes is dropped from the ballot and a new ballot is cast.
- (d) In event that there is only one candidate, the ballots shall be dispensed with and the presiding officer at the Convention shall declare that candidate elected.
- (e) The outgoing President shall complete a two-week paid transition period with the new President.

Section 4. Vacancies

If there is a vacancy in the office of President, the Vice-President shall become President until the next Annual Convention where the vacant position will be filled by regular election or by election to finish the term.

Section 5. Recall of the President

- (a) Recall of the President requires written petition by a majority of the members of the Union, delivered to the Board of Directors within 45 days from the date of the first signature.**
- (b) The Board of Directors will establish an election procedure. The President is eligible to contest the election, and continues in office pending its outcome. For the purposes of this provision, the size of the membership is determined by the number members in good standing in the month prior to the month of the petition. No recall petition shall be acted on if it is delivered within six months of the end of the President's term.**

RATIONALE

Because Article 15 of the HSA Constitution should be updated to improve the handling and processing of complaints and dispute resolution brought under the HSA Constitution;

HSA will Amend Article 15 of the Constitution as follows.

BACKGROUND

The Article 15 process under the Constitution, which governs procedures for addressing complaints between members related to obligations and responsibilities under the HSA Constitution.

Several complaints were filed in the past few years, triggering the need to administer complaints, which exposed inconsistencies and obstacles to fair and efficient administration of the process.

The proposed amendments reflect learnings from the experiences of the past several years, and seek to clarify and improve the complaint and dispute resolution process.

EXISTING LANGUAGE

Article 15 – Complaints & Dispute Resolution
Section 1. Complaints

A member who has reasonable grounds to believe that another member has violated any Obligation or Responsibility provided for in this Constitution may file a complaint against the member in accordance with the procedure set out in this article.

Section 2. Form of Complaint

All complaints must be set out in writing and delivered to the Secretary-Treasurer of the Union. Complaints must contain the following information:

- (a) Name, address, telephone number and signature of person making the complaint (the “Complainant”);
- (b) Member named in complaint;
- (c) Facts which form the basis of the complaint;
- (d) The portion of Constitution that is alleged to have been violated;
- (e) Whether the Complainant has personal knowledge of the facts and, if not, from where the information is derived.

PROPOSED LANGUAGE

Article 15 – Complaints & Dispute Resolution
Section 1. Complaints

A member who has reasonable grounds to believe that another member has violated any Obligation or Responsibility provided for in this Constitution may file a complaint against the member in accordance with the procedure set out in this **Article**.

Section 2. Form of Complaint

All complaints must be set out in writing and delivered to the Secretary-Treasurer of the Union. Complaints must contain the following information:

- (a) Name, address, telephone number and signature of person making the complaint (the “Complainant”);
- (b) Member named in complaint;
- (c) The date on which the conduct or incident in question occurred and the date on which the complainant became aware of the conduct or incident;**
- (d) Facts which form the basis of the complaint;
- (e) The portion of Constitution that is alleged to have been violated;
- (f) Whether the Complainant has personal knowledge of the facts and, if not, from where the information is derived.

Section 3. Time for Bringing Complaint
 A complaint shall be delivered to the Secretary-Treasurer not later than six months after the date on which the Complainant knew or ought to have known of the action or circumstances giving rise to the complaint.

The Secretary-Treasurer shall act as Registrar for incoming complaints unless the Secretary-Treasurer is the subject of a complaint, in which case the Vice-President will act as Registrar.

In the event that a complaint is brought forward against the Board of Directors as a whole or each of the individuals, then the senior staff person of the union shall appoint external counsel to act as Registrar. The Registrar shall have the power to determine whether the complainant has provided sufficient particulars and made the complaint in a timely manner as set out below. The Registrar shall have the power to determine if the complaint may proceed or to dismiss the complaint if:

- it is deficient in any of the particulars outlined in Section 2 (a) to (f) above;
- a grievance or other related legal proceeding is still in process;
- the complainant has other avenues or options available within the union that have not been exhausted; or
- the complaint was not filed within the time frames set out in this Article or a compelling reason was not provided for the delay as set out below.

Section 3. Timelines

A member filing a complaint under this article must do so in a timely manner and exhaust all other available internal union avenues before the complaint is accepted for processing. In order for the complaint to be considered timely, the complaint shall be filed in writing to the Registrar within three months of exhausting all other options, unless the conduct complained of is of an ongoing nature such as harassment or bullying.

Delay in filing an Article 15 complaint because the complainant has attempted to take action outside of internal union processes shall not be considered a compelling reason for the delay and the complaint may be dismissed. Moreover, if the Registrar determines that the

subject to the complaint has been dealt with in another appropriate forum (such as a grievance or other legal proceeding) then the Registrar may dismiss the complaint.

If the complaint is received by the Registrar more than three months after the action or conduct complained of, unless of an ongoing nature, the complainant must provide details explaining why there was a delay in filing the complaint. Only if the Registrar determines that the complainant has provided sufficient particulars and that the complaint is timely or there is a compelling reason for the delay, the complaint shall proceed. For timely complaints, the Registrar has the power to remit the matter back to the complainant if the complaint lacks sufficient particulars. The Registrar may request additional particulars and set reasonable timelines for the provision of such in order to determine that the complaint is ready to proceed.

If a complaint containing sufficient particulars is not filed within the specified three-month time, or the Registrar is not provided with and satisfied that there is a compelling reason for the delay, the complaint shall be dismissed and shall not proceed. The Registrar’s decision to dismiss a complaint may be appealed in writing to the Board of Directors within two weeks (10 working days) of receipt of the decision to dismiss. The Board of Directors must then consider that appeal within 30 calendar days and the President will advise the complainant in writing of the final and conclusive decision whether or not to proceed in the processing of the complaint.

Section 4. Notice of the Complaint

- (a) The Secretary-Treasurer shall, as soon as practicable, after receiving a complaint, notify the person who is the subject of the complaint (the “Respondent”) by mail, ensuring proof of delivery and provide that person with a copy of the complaint received.
- (b) The Secretary-Treasurer shall in the same notice require the Respondent to provide

Section 4. Notice of the Complaint

- (a) The **Registrar** shall, as soon as practicable, after receiving a complaint, notify the person who is the subject of the complaint (the “Respondent”) by mail ensuring proof of delivery and provide that person with a copy of the complaint received.
- (b) The **Registrar** shall in the same notice require the Respondent to provide a written

a written response to the complaint which response may be limited to admitting or denying the complaint. Such response shall be provided within fifteen working days of the complaint being mailed to the Respondent.

Section 5. Investigator

- (a) When a complaint has been received, the Secretary-Treasurer shall ask the Board of Directors to appoint an Investigator.
- (b) If the Secretary-Treasurer determines that the complaint relates to an alleged violation of the Personal Information Protection Act, the matter shall also be referred to the Privacy Officer.
- (c) That Investigator shall make a preliminary investigation of the complaint and for this purpose may consider such evidence and facts which are considered relevant.
- (d) If the Investigator sees an opportunity for alternative dispute resolution, then the Investigator shall recommend this action to the Secretary-Treasurer.
- (e) If the Investigator deems that the complaint is without merit, the complaint is dismissed by the Secretary-Treasurer and a report is provided to the Board of Directors on the Investigator's findings.
- (f) Where the Investigator has determined that the complaint has sufficient merit to proceed to trial in whole or in part, the Investigator will provide a report through the Secretary-Treasurer to the Board of Directors. The Board of Directors will then direct the Chair of the Trial Committee to convene a Hearing Panel.

response to the complaint **within fifteen working days of the complaint being mailed to the Respondent. The response may be limited to admitting or denying the complaint. Failure to provide a response may result in the particulars alleged in the complaint to be accepted as facts by the Registrar. Should the Respondent admit the conduct alleged in the complaint, the Registrar will have the discretion to ask the Board of Directors to bypass the investigation stage set out below in Section 5 and direct the Chair of the Trial Committee to convene a Hearing Panel.**

Section 5. Investigator

- (a) When a complaint has been received **and determined by the Registrar to be sufficient and timely, the Registrar** shall ask the Board of Directors to appoint an Investigator.
- (b) If the **Registrar** determines that the complaint relates to an alleged violation of the Personal Information Protection Act, the matter shall also be referred to the Privacy Officer.
- (c) The Investigator shall **conduct** a preliminary investigation of the complaint and for this purpose may consider such evidence and facts which are considered relevant.
- (d) If the Investigator sees an opportunity for alternative dispute resolution, then the Investigator shall recommend this action to the **Registrar.**
- (e) If the Investigator deems that the complaint is without merit, the complaint shall be dismissed by the **Registrar** and a report provided to the Board of Directors on the Investigator's findings.
- (f) Where the Investigator has determined that the complaint has sufficient merit to proceed to trial in whole or in part, the Investigator will provide a report through the **Registrar** to the Board of Directors, **within 21 days of appointment. The Investigator will also have the ability to request a reasonable extension through the Registrar. Upon receipt of the investigator's report, the Board of Directors will then, within 14 working days of receipt of the Investigator's report, review the Investigator's report and vote whether to direct**

Section 6. Hearing Panel

- (a) The Chair of the Trial Committee shall convene a Hearing Panel consisting of at least three members of the Trial Committee to hear the complaint.
- (b) The hearing panel, so convened, shall have authority to fulfill its responsibilities up to and including publishing its written decision, notwithstanding the Trial Committee's end of term date.
- (c) The Respondent has the right to know the complaint against them and to be provided with the particulars.
- (d) The Respondent must be given reasonable notice of the complaint prior to any hearing and must be given reasonable notice of the hearing date.
- (e) The Hearing Panel shall determine its own procedures, and shall hear and receive evidence in accordance with the following principles:
- (i) The hearing must be conducted in compliance with the intent and purpose of this Constitution and within the framework of the Terms of Reference of the Trial Committee;
 - (ii) The Hearing Panel shall call evidence; examine witnesses; receive evidence from the Respondent, Complainant, and other witnesses, and the representative(s) of the Board of Directors; and receive documents and submissions;
 - (iii) The trial shall be conducted in good faith and without bias;
 - (iv) The Hearing Panel is not bound by the strict rules of evidence. However, any decision reached must be based on the actual evidence adduced and not influenced by any matters outside the scope of the evidence.
 - (v) If the Hearing Panel cannot reach

the Chair of the Trial Committee to convene a Hearing Panel. Should the Board of Directors vote to proceed to a Hearing, the Hearing must commence within two months of the determination by the Board of Directors.

Section 6. Hearing Panel

- (a) The Chair of the Trial Committee shall convene a Hearing Panel consisting of at least three members of the Trial Committee to hear the complaint.
- (b) The hearing panel, so convened, shall have authority to fulfill its responsibilities up to and including publishing its written decision, notwithstanding the Trial Committee's end of term date.
- (c) The Respondent has the right to know the complaint against them and to be provided with the particulars, **which may be provided in summary form by the Registrar, the Investigator, or the Chair of the Trial Committee.**
- (d) The Respondent must be given **30 days'** notice of the complaint prior to any hearing and must be given **30 days'** notice of the hearing date.
- (e) If a hearing cannot be scheduled within the prescribed timelines in section 5(f) and 6(d) the Chair of the Trial Committee may request an extension of the timeline to the Board of Directors.**
- (f) The Hearing Panel shall determine its own procedures, and shall hear and receive evidence in accordance with the following principles:
- (i) The hearing must be conducted in compliance with the intent and purpose of this Constitution and within the framework of the Terms Reference of the Trial Committee;
 - (ii) The Hearing Panel shall call evidence; examine witnesses; receive evidence from the Respondent, Complainant, and other witnesses, and the representative(s) of the Board of Directors; and receive documents and submissions;
 - (iii) The trial shall be conducted in good faith and without bias;
 - (iv) The Hearing Panel is not bound by the strict rules of evidence. However, any decision reached must be based on the actual evidence

consensus on the charge, the decision of the majority of the Hearing Panel will be the decision of the Hearing Panel.

(f) The Respondent and the Complainant have the right to have a representative accompany them to the hearing.

(g) The Hearing Panel shall be provided with access to legal counsel.

(h) The Board of Directors shall be a party with the same rights of participation as the other parties to any trial where the Board of Directors determines that the matter before the Trial Committee is of significant interest to the Union or for other good reason. The decision to be a party is in the sole discretion of the Board of Directors. The Board of Directors may appoint a representative(s), including legal counsel, to appear before the Trial Committee.

Section 7. Decision

(a) Upon conclusion of the trial the Hearing Panel shall, as soon as practicable, publish a written decision and forward it to the Board of Directors, the Investigator, the Complainant, and the Respondent.

(b) Where the member has been found guilty of a breach of any Obligation or Responsibility in the Constitution, the Hearing Panel shall decide the appropriate level of discipline considering all of the circumstances. If appropriate, the Hearing Panel may seek further submissions from the parties before imposing any discipline.

If the Hearing Panel cannot reach consensus on the discipline, the decision of the majority of the Hearing Panel will be the decision of the Hearing Panel. Discipline may include the following:

adduced and not influenced by any matters outside the scope of the evidence.

(v) If the Hearing Panel cannot reach consensus on the charge, the decision of the majority of the Hearing Panel will be the decision of the Hearing Panel.

(g) The Respondent and the Complainant have the right to have a representative or legal counsel accompany them to the hearing. **The Union will not pay for legal counsel of either the Complainant or Respondent. However, the successful party may apply to the Secretary-Treasurer for reasonable costs at the ultimate conclusion of the proceeding.**

(h) The Hearing Panel shall be provided with access to legal counsel.

(i) The Board of Directors shall be a party with the same rights of participation as the other parties to any trial where the Board of Directors determines that the matter before the Trial Committee is of significant interest to the Union or for other good reason. **The Board of Directors, as an entire entity, shall be provided with access to legal counsel.** The decision to be a party is in the sole discretion of the Board of Directors. The Board of Directors may appoint a representative(s), including legal counsel, to appear before the Trial Committee.

Section 7. Decision

(a) The Hearing Panel shall, within two months of the conclusion of the trial, publish a written decision and forward it on whether the complaint has been upheld or dismissed. The decision shall be sent to the Board of Directors, the Investigator, the Complainant, and the Respondent. If the decision cannot be published within the prescribed timeline, the Hearing Panel Chair may request an extension from the Board of Directors.

(b) Where the member has been found guilty of a breach of any Obligation or Responsibility in the Constitution, the Hearing Panel shall also decide the appropriate level of discipline considering all of the circumstances. If appropriate, the Hearing Panel may, after issuing its decision on the merits as set out above, seek further submissions from the parties before

- (i) A written warning;
- (ii) Removal from office or position in the Union;
- (iii) Prohibition and/or restriction on holding elected positions in the Union;
- (iv) Prohibition and/or restriction on attending Union events including Convention;
- (v) A fine not in excess of \$25,000;
- (vi) Suspension or expulsion from Union membership;
- (vii) Any other discipline deemed appropriate.

Section 8. Expenses

- (a) The Union shall reimburse members and witnesses for their reasonable transportation expenses and lost wages resulting from their necessary attendance at the hearing.
- (b) Should expenses be incurred as a result of processing a complaint and the process is not completed due to the Complainant(s) not participating in the process, the Union may bill the Complainant(s) to recoup the costs.

Section 9. Appeal

- (a) Any member found in breach of the Constitution may seek leave to appeal such decision to the next Convention. Any appeal must be submitted in writing to the President within one month of mailing of the decision of the Hearing Panel to the member’s address on file with the Hearing Panel. The appeal must contain the facts which form the basis for the appeal.
 - (i) If leave to appeal is granted, Convention as a whole will hear the appeal.
 - (b) A disciplined member may seek leave to appeal the imposed discipline to the next

imposing any discipline.

If the Hearing Panel cannot reach consensus on the discipline, the decision of the majority of the Hearing Panel will be the decision of the Hearing Panel. **In the event that the Hearing Panel is issuing a separate decision on the discipline, that written decision must be rendered no later than 30 days after the determination of the merits has been published.**

Discipline may include the following:

- (i) A written warning
- (ii) Removal from office or position in the Union
- (iii) Prohibition and/or restriction on holding elected positions in the Union;
- (iv) Prohibition and/or restriction on attending Union events including Convention;
- (v) A fine not in excess of \$25,000;
- (vi) Suspension or expulsion from Union membership;
- (vii) Any other discipline deemed appropriate.

Section 8. Expenses

- (a) **Members and witnesses may seek reimbursement from the union for their reasonable transportation expenses and lost wages resulting from their necessary attendance at the hearing.**
- (b) Should expenses be incurred as a result of processing a complaint and the process is not completed due to the Complainant(s) **or Respondent(s)** not participating in the process, the Union may bill the Complainant(s) **or Respondent(s)** to recoup the costs.

Section 9. Appeal

- (a) **Any member affected by a Trial Decision under this Article of the Constitution may seek leave to appeal such decision to the next Convention. The Appellant may seek review of the determination of the Hearing Panel, the discipline imposed, or both matters.**
- (b) **Any appeal must be submitted in writing to the President within one month of mailing of the decision of the Hearing Panel to the member’s address on file with the Hearing Panel. The appeal must contain the facts and state the basis and grounds as set out in Section 9(c), which form the basis of the**

Convention. Any appeal must be submitted in writing to the President within one month of mailing of the decision of the Hearing Panel to the member's address on file with the Hearing Panel. The appeal must contain the facts which form the basis of the appeal.

(i) If leave to appeal is granted, five (5) members at the Convention shall be selected by lot to hear the appeal of the sentence (the Discipline Appeal Committee). No witness or party to the hearing or member of the Trial Committee shall be permitted to be on the Discipline Appeal Committee.

(ii) The decision of the Discipline Appeal Committee is final and there is no right to appeal its decision. Any party to the original decision may participate in the hearing before the Discipline Appeal Committee. Any appeal is an appeal on the record and not a hearing de novo. The Discipline Appeal Committee may also consider any direction given by Convention at the time of granting leave.

(iii) The Union shall reimburse members for their reasonable transportation expenses and lost wages resulting from necessary attendance at any leave to appeal application or attendance before the Discipline Appeal Committee.

(iv) The Discipline Appeal Committee shall be provided access to legal counsel.

(v) The Discipline Appeal Committee shall publish their written decision as soon as practicable after the conclusion of the Appeal.

(c) In the case of a suspension or expulsion from Union membership, the penalty will not be implemented in such a manner that it affects a member's employment pending resolution of an appeal. The President shall determine a fair and appropriate procedure.

appeal. The President may deny leave to appeal if the basis and grounds are not met.

(c) An application for leave to appeal must show a good arguable case of sufficient merit. This means that the President, who shall be entitled to consult with legal counsel, must be satisfied the appeal might succeed on one of the following grounds:

(i) The original decision is inconsistent with the principles expressed or implied in the Constitution, the Labour Relations Code, or in another statute dealing with labour relations.

(ii) The Hearing Panel denied the party a fair hearing.

(iii) New evidence has become available that was not available earlier through the exercise of reasonable diligence. There must be a strong probability that the new evidence will have a material and determinative effect on the decision.

(iv) The penalty or penalties imposed are excessive.

(d) If leave to appeal is granted by the President, Convention as a whole will hear the appeal.

(e) In advance of convention, the Board of Directors shall determine the rules for the appeal hearing consistent with the rules of natural justice and fair process and advise all parties to the appeal at least two weeks prior to convention of the appeal rules. If the appellant is appealing both the determination of the complaint by the Hearing Panel and the discipline imposed, the Board of Directors may create a bifurcated process.

(f) Any appeal is an appeal on the basis of the written decision of the initial Hearing Panel and documentary evidence submitted at the original hearing and is not a hearing de novo. The decision of the Convention is final and conclusive. There is no right to appeal the decision of Convention. In the case of suspension or expulsion from Union membership, the penalty will not be implemented in such a manner that it affects a member's employment pending resolution of an appeal.

RATIONALE

Because the HSA Constitution lacks clarity on the membership status of members disciplined under Article 15 – Complaints and Dispute resolution;

HSA will amend Article 5 of the HSA constitution by adding Sections 3., 4., and 5. as follows.

BACKGROUND

The Constitution is currently silent on consequences of loss of status of membership in good standing.

New sections 3, 4, and 5 address issues related to membership in good standing, including suspension and cessation of membership.

EXISTING LANGUAGE
<p>Article 5 – Membership Section 1. Eligibility and Membership Criteria</p> <p>(a) Any person employed in a bargaining unit that is represented by the Union is a member of the Union; any person who could be represented by the Union is eligible for membership. Any such membership must not be prohibited under the Constitution.</p> <p>(b) The Board of Directors may refuse membership for reasonable cause. Reasonable cause shall include the fact that an applicant for membership has:</p> <ul style="list-style-type: none"> (i) crossed a lawful picket line of this or another union; (ii) accepted employment as a replacement for an employee not at work due to a strike or lockout; (iii) acted to prevent a union from obtaining or maintaining a certification for any unit of employees <p>(c) Every applicant for membership shall have a right to natural justice and shall not be denied membership on a discriminatory basis.</p> <p>Section 2. Initiation Fees and Dues</p> <p>(a) The initiation fees and membership dues shall be determined from time to time at a convention of the Union.</p>

PROPOSED LANGUAGE
<p>Article 5 – Membership Section 1. Eligibility and Membership Criteria</p> <p>(a) Any person employed in a bargaining unit that is represented by the Union is a member of the Union; any person who could be represented by the Union is eligible for membership. Any such membership must not be prohibited under the Constitution.</p> <p>(b) The Board of Directors may refuse membership for reasonable cause. Reasonable cause shall include the fact that an applicant for membership has:</p> <ul style="list-style-type: none"> (i) crossed a lawful picket line of this or another union; (ii) accepted employment as a replacement for an employee not at work due to a strike or lockout; (iii) acted to prevent a union from obtaining or maintaining a certification for any unit of employees <p>(c) Every applicant for membership shall have a right to natural justice and shall not be denied membership on a discriminatory basis.</p> <p>Section 2. Initiation Fees and Dues</p> <p>(a) The initiation fees and membership dues shall be determined from time to time at a convention of the Union.</p> <p>(b) The Board of Directors may, as a result of job action, initiate a temporary dues increase to a maximum of 17% of earnings on some or</p>

(b) The Board of Directors may, as a result of job action, initiate a temporary dues increase to a maximum of 17% of earnings on some or all working members covered by the affected Collective Agreement, with such funds to form part of the Defence Fund of the Union.

(c) No member shall pay more than one initiation fee in any 12 month period.

all working members covered by the affected Collective Agreement, with such funds to form part of the Defence Fund of the Union.

(c) No member shall pay more than one initiation fee in any 12 month period.

Section 3. Continuation of Membership
Once accepted, a member continues as a member in good standing while employed in a bargaining unit that is represented by the Union unless the member loses good standing under the provisions of this Constitution.

Section 4. Suspension of Membership
Membership in good standing in the union may be suspended by a Disciplinary decision of the Hearing Panel as defined in Article 15, Section 7, paragraph (b) (iv). Members who are suspended are not permitted to hold or run for any elected position, nor may they attend or participate in any Union events. If the Hearing Panel's decision does not include a timeframe specifying the length of the suspension, then the length of the suspension is indefinite. After every two years from the commencement of the suspension, the member may request re-instatement of membership in good standing via written correspondence to the Board of Directors with supporting arguments and documentation. The decision of the Board of Directors is considered to be final.

Section 5. Cessation of Membership
If a member ceases to be employed for any reason (except where the member has been dismissed from their employment and is grieving the dismissal) in a bargaining unit that is represented by the Union, that member ceases to be a member of the Union ("Former Member") as of the end of the calendar month in which their employment in the bargaining unit ended ("Cessation of Membership").