



NAPTOSA

CONSTITUTION

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INDEX

NUMBER	CLAUSE	PAGE
	Preamble and Principles	1
1	Name and Juristic Personality	2
2	Headquarters of the Union	2
3	Definitions	2
4	Objectives	5
5	Membership	7
6	Powers and Functions of the Union	10
7	Governance and Control of the Union	11
8	National Structures	12
	8.1 National Congress	12
	8.2 National Council	14
	8.3 National Executive Committee	17
	8.4 National Standing Committee	20
	8.5 National Finance and Human Resources Committees	22
	8.6 National Portfolio Committees	23
9	Provincial Structures	24
	9.1 Annual Provincial Conference	24
	9.2 Provincial Executive Committee	25
	9.3 Provincial Standing Committee	28
	9.4 Provincial Finance and Human Resources Committees	30
	9.5 Provincial Portfolio Committees	31
	9.6 Province under curatorship	32
10	Branch Structures	32
	10.1 General	32

	10.2	Branch Annual General Meeting	32
	10.3	Branch Committee	33
	10.4	Branch Representatives and Members meeting	34
	10.5	Union Representatives Meeting	35
11		Union Leadership	36
	11.1	National Executive Leadership	36
	11.2	Provincial Executive Leadership	39
	11.3	Branch Leadership	42
12		Members of staff of the union	44
	12.1	General	44
	12.2	National level	45
	12.3	Provincial level	47
13		General Meeting Provisions	49
14		General Election Provisions	53
15		Discipline	54
16		Financial Matters of the Union	59
17		Rules and Standing Orders of the Union	61
18		Amendment of the Constitution	61
19		Interpretation	62
20		Language of Record	62
21		Ballots	62
22		Dissolution/Amalgamation of the Union	65
23		Deliberation and Consultation	66
ANNEXURES			
	ANNEXURE A: NAPTOSA Disciplinary Code and Procedure for members of staff		67
	ANNEXURE B: NAPTOSA appointment procedures for members of staff		78

NATIONAL PROFESSIONAL TEACHERS' ORGANISATION OF SOUTH AFRICA (NAPTOSA)

PREAMBLE AND PRINCIPLES

WHEREAS the development of the country is fundamentally dependent upon the quality of education provided to its citizens, the members subscribing to this Constitution believe that they should unite in their efforts to contribute effectively to the quality of the education system and of the teaching profession;

AND WHEREAS there is a need for a national Union of employees in the education sector who subscribe to the principle that teaching is a unique profession and that this should be confirmed by affording appropriate status to educators and employees in the education sector;

AND WHEREAS each educator and education sector employee has the same fundamental rights and obligations as every other citizen;

AND WHEREAS the organised education sector, as represented by this Union and each education sector employee, should practise and participate within those legitimate structures which have been democratically established.

To this end this Union shall be based on a commitment to the following principles:

- The inalienable right of every child and student to quality education within an equitable and non-discriminatory system of education;
- A high level of professionalism from all education sector employees; and
- The enhancement of all aspects of the working life of education sector employees

In order to achieve the above this national Union shall be

- non-discriminatory on the basis of colour, language, gender, religion, ethnic origin, social class, birth, political or other convictions, or disabilities or other natural or cultural characteristics;
- independent, autonomous and party politically non-aligned;
- guided by the respect for fundamental human rights as enshrined in the Constitution of the Republic of South Africa including the Bill of Rights; and
- inclusive of all like-minded education sector employees

1 NAME AND JURISTIC PERSONALITY

1.1 Name

The Union shall be called the National Professional Teachers' Organisation of South Africa (NAPTOSA), hereinafter called "the Union".

1.2 Legal persona

1.2.1 The Union is a juristic person endowed with full legal capacity, capable, *inter alia*, of suing and being sued in its own name, and capable of acquiring, hypothecating and alienating movable and immovable property.

1.2.2 Unless otherwise provided for by this Constitution, no member, office bearer, official or employee of the Union shall, by reason only of the fact of such status, be liable for any of the obligations of the Union, unless such person has acted in a manner which would constitute misconduct.

2 HEADQUARTERS OF THE UNION

The headquarters of the Union shall be determined by the National Congress.

3 DEFINITIONS

3.1 Unless the context indicates otherwise –

3.1.1 "Act" shall mean the Labour Relations Act, No. 66 of 1995, as amended;

3.1.2 "Chairperson of a Province" shall mean a person elected to the highest position of the Union in a Province in terms of this Constitution;

3.1.3 "Chief Executive Officer" shall mean the Provincial Secretary of a Province appointed in terms of this Constitution;

3.1.4 "Councillor" shall mean a member of the Union in a Province elected to represent members of that province on the National Council;

3.1.5 "Delegate" shall mean a member of the Union in a Province representing the members of the Union in the Province in a structure of the Union;

3.1.6 "Division" within the education sector shall include, *inter alia*, such areas as Community Education and Training; Early Childhood Development; Schools for Specialised and Vocational Education; Technical Vocational Educational

and Training Colleges; Phases within Schools and any other classifications approved by the National Congress or National Council;

- 3.1.7 “Education Sector Employee” shall mean a person who –
- (a) is an employee in an education institution, whether public or private, formal or informal; and
 - (b) provides support, auxiliary or professional therapeutic or social services in any institution referred to in (a) above;
- 3.1.8 “Employee” shall mean any person who works in an education institution and who receives, or is entitled to receive, any remuneration, and any other person who in any manner assists in carrying on or conducting the business of an employer in the education sector;
- 3.1.9 “Employer” shall mean any person, enterprise or organisation, including the State, who employs or provides work for an employee;
- 3.1.10 “Ex officio” shall refer to a person who serves on a structure or committee of the Union by virtue of the office or position held by that person. A person who serves ex-officio shall be entitled to vote unless specifically excluded by this Constitution;
- 3.1.11 “Executive Director” shall mean the general secretary of the Union appointed in terms of this Constitution;
- 3.1.12 “Majority” shall mean more than 50% of those eligible to vote and voting unless a two-thirds majority is required by the constitution of the Union or unless a different basis for the vote count is indicated in the constitution. Voting shall include all votes cast indicated either by show of hands or by ballot.
- 3.1.12A “Marginalised groups” means groups that experience discrimination and exclusion (social, economic, political) because of unequal power relationships across economic, political, social and cultural dimensions, such as girls, women and members of the LGBTQI+ community.
- 3.1.13 “Member” shall mean a Member in Good Standing;
- 3.1.14 “Member in Good Standing” shall mean a person who has paid any initial entry fee laid down in this Constitution and who is not more than three months in arrears with the payment of any membership fees payable in terms of this Constitution;
- 3.1.15 “Member of staff” shall mean any person employed by the Union permanently or temporarily in either full-time or part-time capacities.

- 3.1.16 “National Executive Leadership” shall mean the President, Deputy President and Vice-President of the Union.
- 3.1.17 “Office bearer” shall mean an office bearer as defined in the Act;
- 3.1.18 “Official” shall mean a member of staff;
- 3.1.18A “Place(s)” means a building or locality, a virtual platform, any other meeting platform, or a combination of some or all of them, used to conduct a meeting of a structure of the union, and “venue” shall have the same meaning.
- 3.1.19 “President” shall mean the National President of the Union elected in terms of this Constitution”;
- 3.1.20 “Province(s)” shall mean a provincial division of NAPTOSA, as per the geographical area(s) of South Africa as determined by the Constitution of South Africa and each province shall be known as “NAPTOSA: *Name of Province*”;
- 3.1.21 “Provincial Executive Leadership” shall mean the Chairperson, Deputy Chairperson and Vice-Chairperson of the Province.
- 3.1.22 “Provisions” shall mean the terms, conditions, rights, promises, undertakings, covenants, restraints, obligations and provisions contained, conferred or imposed under this Constitution;
- 3.1.23 “Quorum” shall mean a quorum as set out in clause 13.4 read with the introductory paragraph of clause 13;
- 3.1.24 “Representative” shall mean a member, office bearer or member of staff who is delegated to represent the Union;
- 3.1.25 “Rules” shall include policies adopted for the Union by a competent structure of the Union;
- 3.1.26 “SAM” shall mean the Staff Administrative Measures of the Union as approved by the National Executive Committee;
- 3.1.27 “Secretary of the meeting” means-
- (a) the Executive Director, or the member of staff to whom the secretarial function has been delegated, in respect of meetings of National structures (and committees of structures) of the Union;
 - (b) the Provincial Chief Executive Officer, or the member of staff to whom the secretarial function has been delegated, in respect of meetings of Provincial structures (and committees of structures) of the Union; and

- (c) the member of the Union, assigned/elected by the relevant Branch structure to act as secretary;

3.1.28 “Sector and Education Sector” shall mean any employment domain in South Africa in which an employee is employed as an education sector employee;

3.1.29 “Serve” means the delivery or transmission of documents to the member/person concerned by-

- (a) handing a copy of the document to him;
- (b) leaving a copy of the document at his last-known address;
- (c) tele-fax or any other electronic means (including but not limited to e-mail) permissible by law;
- (d) by sending a copy of the document by registered post or telegram to his last-known address; and

“served” shall have a similar meaning;

3.1.30 “the Union” shall mean the National Professional Teachers’ Organisation of South Africa (NAPTOSA).

3.2 Unless the context indicates otherwise words in the singular shall include the plural and reference to one of the genders shall include the other.

3.3 Expressions defined in this Constitution shall bear the same meanings in schedules or annexures hereto or rules formulated in terms hereof, which do not themselves contain their own definition.

3.4 All words and phrases herein or in schedules or annexures hereto or rules formulated in terms hereof and not specifically defined, shall have, where applicable, the meaning accorded to it in terms of the Act.

3.5 A number of clauses in this constitution contain references to the accommodation of a certain percentage or number of members from marginalised groups. If at any stage these percentages or numbers are not attained, the legitimacy of the relevant structures or executive leadership positions shall not be compromised, nor the lawfulness of any decisions taken by such leaderships or structures.

4 OBJECTIVES

4.1 The Union is a voluntary association of members, not for gain, that aims to –

- (a) promote, protect and maintain the rights, status and interests of its members; and

- (b) advance quality education in South Africa.

4.2 The Union shall-

- (a) promote a system of education that is non-discriminatory with regard to colour, language, gender, religion, ethnicity, origin, social class, birth, political or other convictions, disabilities, natural or cultural characteristics;
- (b) promote a system of education which focuses on the needs of the individual learner;
- (c) strive for an equitable system of education in South Africa which will satisfy the needs and aspirations of all its people;
- (d) strive for the establishment and the maintenance of effective compulsory education;
- (e) strive for the establishment and the maintenance of free public education;
- (f) assert the professional responsibility of educators to guide learners and students in their care in the universal pursuit of knowledge and skills and in the development of full creative potential so that they may become responsible and self-supporting citizens of a democratic state;
- (g) ensure that the interests of learners are in no way prejudiced by any act or omission on the part of employees, whilst affirming the fundamental right of employees to strike;
- (h) render an effective service to and on behalf of its members.
- (i) contribute to the development of all education legislation and all aspects of education policy and planning;
- (j) strive to maintain and enhance effective consultation, advisory, collective negotiating and bargaining mechanisms and structures for the organised teaching profession;
- (k) support a professional body which is responsible for the registration of educators, the promotion of professional development of educators and the maintenance of a code of conduct;
- (l) co-operate with parents, communities and other bodies in the quest for excellence in education;

- (m) promote effective involvement and interaction at local, regional, provincial, national and international levels;
- (n) obtain and disseminate relevant information;
- (o) promote the development of members by means of workshops, seminars and conferences;
- (p) assume financial responsibility for a fund or funds to be applied in the achievement of the objectives stated above, and to take any action to raise or obtain funds;
- (q) provide a collective voice in the pursuance of its aims and objectives including, but not limited to, continual evaluation and enhancement of legislation affecting education and education sector employees, as circumstances may require;
- (r) do all things necessary for the furtherance and achievement of any or all of the above objectives and in general serve the best interests of the Union, its members and its provincial structures;
- (s) assist members with/ advise members on grievances, disciplinary cases and disputes; and
- (t) strive to enhance salaries and conditions of service of members through collective bargaining processes.

- 4.3 Substantially the whole of the activities of the Union will be directed to the furtherance of its sole or principal objective and not for the specific benefit of an individual member or minority group.

5 MEMBERSHIP

5.1 Members

Any education sector employee in the Republic of South Africa shall be eligible for membership of the Union.

- 5.2 Application for membership, or readmission to membership, shall be made in writing to the Provincial Chief Executive Officer for a decision within 7 working days of receipt thereof.

- 5.3 An applicant to whom membership is refused shall be provided with reasons for such refusal within two weeks of such a decision having been made.

- 5.4 If admission is refused, the applicant concerned shall have the right of appeal, in writing, to the next meeting of the Provincial Executive Committee which shall have the power to confirm or reverse the decision. The decision of the Provincial Executive Committee shall be final.
- 5.5 An employee who has resigned, whose membership of the Union has been terminated or whose membership of the Union terminated automatically in terms of clause 15.5 of the Constitution may be readmitted to membership on such conditions as determined by the Provincial Executive Committee.
- 5.6 A member shall not be precluded from membership of another Union, provided such member shall not be eligible for election as an office bearer in any structures of the Union.

5.7 Membership Subscriptions

5.7.1 Membership subscription shall be determined from time to time by the National Congress or National Council based on the operational requirements of the Union and in accordance with its objectives, in an amount not exceeding R 150,00 per member per month. The provisions of section 13(3) of the Labour Relations Act, 1995, shall apply in respect of the termination of membership of the Union, namely-

- (a) three (3) months' written notice to the Union and the employer if the member works in the public service, and
- (b) one (1) month's written notice to the Union and the employer if the member does not work in the public service.

Where a member's subscriptions are in arrears, the member shall have three calendar months in which to pay the arrears, failing which membership shall be terminated by the Union.

5.7.2 In addition to the membership subscription a member shall also be liable for the payment in the same manner of such other fees as may be prescribed in terms of this Constitution or may be paid by the Union as a levy towards membership by the Union of a federation or any other organisation agreed to by the National Executive Committee.

5.7.3 A member shall be exempt from the payment of the aforesaid membership subscription in respect of any period during which the person is on unpaid leave for thirty or more days up to a maximum of six continuous months.

5.8 Associate

5.8.1 The following persons may apply to become Associate members of NAPTOSA:

- (a) A person who was a member of NAPTOSA at the time of retirement or resignation and has not resumed active service; and
- (b) An education faculty student for the time that he/she remains in fulltime study

5.8.2 The provisions of clauses 5.2 - 5.4 shall apply with the necessary changes.

5.8.3 An associate:

- (a) shall not be entitled to vote or hold elected office;
- (b) shall pay such fees as determined from time to time by the National Executive Committee; and
- (c) shall receive such publications of the Union and other benefits as decided by the National Executive Committee.

5.9 **Awards of the Union**

The Union shall be entitled to make awards to persons in recognition of identified achievements to education and/or the Union. The National Executive Committee shall have the power to consider and approve any nominations for any approved awards.

5.9.1 **Gold Medal**

A person who is either a member, past member or not a member may be given a Gold Medal in terms of rules established by the National Congress or National Council. This award shall be the highest honour that the Union may bestow on any person for an outstanding and sustained contribution to education in South Africa.

5.9.2 **Life Award**

A person who is either a member or a past member of the Union may be given a Life Award in terms of rules established by the National Congress or National Council. This award shall be the highest that the Union may bestow on a member or past member for services to the Union.

5.9.3 **Honorary Associate Award**

Any person may become an Honorary Associate in terms of rules established by the National Congress or National Council. This award will be reserved for persons who are not and have never been members of the Union and who have rendered outstanding service to the Union.

5.9.4 A person who receives a Gold, Life or Honorary Associate award—

- (a) shall be entitled to receive all the benefits afforded to an associate; but
- (b) shall not be entitled to hold elected office after retirement, where applicable.

5.9.5 Other Awards

The National Congress or National Council may establish other awards for members, past members or non-members provided that Rules are also approved for such awards.

6 POWERS AND FUNCTIONS OF THE UNION

6.1 The Union shall have the power –

- (a) to conclude and enforce contracts and collective agreements pertaining to all aspects of the working lives of employees who are members and perform other juristic acts;
- (b) to acquire, mortgage, pledge or otherwise encumber any movable or immovable property;
- (c) to borrow, lend and invest money subject to this Constitution;
- (d) to take part in any form of consultation, litigation, arbitration or other dispute resolution proceedings;
- (e) to determine the conditions of service of members of staff;
- (f) to consider and deal with matters and disputes of common interest referred to it by its Provincial Executive Committees in accordance with the provisions of this Constitution;
- (g) to determine whether a province has the financial resources and/or capacity to administer its affairs as prescribed in this Constitution, and, if it determines that a province does not have the financial resources and/or capacity to administer its affairs, to allocate all or some of its responsibilities to another province or the National Executive Committee;
- (h) to suspend or dissolve a Provincial Executive or Standing Committee from the activities and affairs of the Union;
- (i) to set and collect membership subscriptions;
- (j) to establish an institute, or any other structure to further the objectives of

the Union provided that the governance, funding and operation of such a body is consistent with this Constitution;

- (k) subject to the provisions of this Constitution, to formulate Rules regarding the administration and the running of the Union and its business;
- (l) to exercise any other power that may be necessary or desirable to achieve the objectives of the Union;
- (m) to delegate such powers and duties as it deems to be conducive to the attainment of its objectives to relevant structures of the Union.

6.2 The powers and functions of the Union shall be exercised through the structures indicated in clauses 8-10.

7 GOVERNANCE AND CONTROL OF THE UNION

7.1 Subject to the provisions of this Constitution the affairs of the Union shall be governed and controlled and its powers and functions performed by –

- 7.1.1 A National Congress of Delegates;
- 7.1.2 A National Council of Councillors;
- 7.1.3 A National Executive Committee;
- 7.1.4 A National Standing Committee;
- 7.1.5 A National Finance Committee;
- 7.1.6 A National Human Resources Committee;
- 7.1.7 National Portfolio Committees provided for in this Constitution and as established by National Congress, National Council or the National Executive Committee;
- 7.1.8 Ad hoc committees appointed by National Council or the National Executive Committee; and
- 7.1.9 The Provincial Structures of the Union including a Provincial Conference, Provincial Executive Committee, Provincial Standing Committee, Provincial Finance Committee, Provincial Human Resources Committee, Provincial Portfolio Committees and Branches.

- 7.2 All national committees and ad hoc committees shall report to the National Executive Committee and all provincial committees and branches shall report to the Provincial Executive Committee.
- 7.3 All structures of the Union shall be bound by the Constitution of the Union, whilst every structure shall act in accordance with Rules established by higher structures of the Union.
- 7.4 Notwithstanding clause 7.3., a Provincial Executive Committee may propose Rules and Standing Orders specific to that Province, provided it be submitted to the National Executive Committee for approval.

8 NATIONAL STRUCTURES

8.1 NATIONAL CONGRESS

8.1.1 Authority

The National Congress of the Union shall be the highest governing, policymaking and decision-making authority of the Union and is empowered to carry out all the powers and functions of the Union contained in clause 6 and to delegate these to the National Council and/or the National Executive Committee.

8.1.2 Composition

8.1.2.1 The National Congress shall comprise the following delegates:

- (a) The President (as Chairperson);
 - (b) The Deputy President;
 - (c) The Vice-President;
 - (d) The Chairperson of each Province;
 - (e) The Chairperson of each National Portfolio Committee
 - (f) Councillors of each Province;
 - (g) The Executive Director (ex officio);
 - (h) Provincial Chief Executive Officers of those provinces where such a post has been established (ex officio); and
 - (i) Additional delegates as determined by proportional representation and appointed by each of the Provincial Executive Committees of the Union;
- provided at least 50% of the attendees of the National Congress are from marginalised groups.

8.1.2.2 The formula for calculating proportional representation shall be determined by the National Executive Committee, with due regard to

the inclusivity of each division within the education sector, and in terms of rules established in terms of this Constitution; provided at least 50% of the additional delegates appointed by each of the Provincial Executive Committees in terms of clause 8.1.2.1 (i) are from marginalised groups.

8.1.2.3. A Provincial Executive Committee may appoint an alternate for each delegate provided that written notification is received by the Executive Director 30 days prior to a meeting of the National Congress.

8.1.2.4 A Provincial Executive Committee may at any time withdraw any of its delegates or alternates by written notice to the Executive Director.

8.1.2.5 A delegate or alternate may resign by giving written notice to the relevant Provincial Chief Executive Officer and the Executive Director.

8.1.2.6 Should a vacancy arise as a result of the withdrawal, insolvency, death, resignation or disqualification of a delegate or an alternate, the vacancy shall be filled by the relevant Provincial Executive Committee.

8.1.2.7 Any delegate or alternate appointed in terms of clause 8.1.2.6 to fill a vacancy shall serve in this capacity for the unexpired period of the predecessor.

8.1.2.8 Should a Provincial Executive Committee be suspended or dissolved the delegates representing that Province shall vacate their seats provided that the National Executive Committee shall have the right to appoint delegates from that Province.

8.1.2.9 At each triennial meeting of the National Congress the National Executive Leadership of the Union shall be elected.

8.1.3 Meetings

8.1.3.1 Meetings of the National Congress shall be held at a time and place to be determined by the National Executive Committee provided that the National Congress shall meet at least once every three years. Such triennial meetings shall be called normal meetings of the National Congress.

8.1.3.2 The general meeting procedures contained in clause 13 shall apply to all meetings of the National Congress with the necessary changes required, except for the provisions pertaining to Special meetings of the National Congress contained in this clause 8.1.

8.1.3.3 The National Congress shall *inter alia* deal with the following matters:

- (a) The reports of the President, National Council, National Executive Committee, Provincial Executive Committees, Executive Director and any other relevant reports;
- (b) The approval of amendments to the Constitution;
- (c) Decisions regarding the income of the Union, substantially the whole of which will be derived from the annual or other long-term members of the Union or from an appropriation by the government of the Republic in the national, provincial or local sphere;
- (d) The election of National Executive Leadership; and
- (e) Any other relevant issues including matters and motions referred to National Congress by the President, the National Executive Committee and Provinces of the Union.

8.1.3.4 A Special Meeting of the National Congress shall also convene at a date and venue to be determined by the President within 60 days from the date of a written request to him/her by a Provincial Executive Committee approved by Provincial Executive Committees representing more than 50% (fifty percent) of the members of the Union, unless a meeting has already been scheduled to take place within 30 days as from the date of such request.

8.1.3.5 The President may authorise shorter notice of a Special Meeting than the period referred to in clause 13, should all the Provincial Executive Committees consent to such shorter notice.

8.2 NATIONAL COUNCIL

8.2.1 Authority

The National Council of the Union shall be, subject to the National Congress, the policymaking and decision-making authority of the Union between meetings of the National Congress and is empowered to carry out all the powers and functions of the Union contained in clause 6, delegated to it by the National Congress.

8.2.2 Composition

8.2.2.1 The National Council shall be constituted as follows:

- (a) The President (as Chairperson);
 - (b) The Deputy President;
 - (c) The Vice-President;
 - (d) The Chairperson of each Province of the Union;
 - (e) The Chairperson of each National Portfolio Committee;
 - (f) The Executive Director (ex officio);
 - (g) The Provincial Chief Executive Officers (ex officio) of those provinces where such a post has been established; and
 - (h) Councillors as determined by proportional representation and selected by each of the Provinces of the Union;
- provided at least 50% of the attendees of the National Council are from marginalised groups.

8.2.2.2 The formula for calculating the proportional representation shall be determined by the National Executive Committee with due regard to the inclusivity of each division within the education sector and in terms of rules established under this Constitution; provided at least 50% of the Councillors appointed by each of the Provinces in terms of clause 8.2.2.1 (h) are from marginalised groups

8.2.2.3 A Provincial Executive Committee may appoint an alternate for each councillor provided that written notification is received by the Executive Director 30 days prior to a meeting of the National Council.

8.2.2.4 A Provincial Executive Committee may at any time withdraw any of its councillors or alternates by written notice to the Executive Director.

8.2.2.5 A councillor or alternate may resign by giving written notice to the relevant Provincial Executive Committee and the Executive Director.

8.2.2.6 Should a vacancy arise as a result of the withdrawal, insolvency, death, resignation or disqualification of a councillor or an alternative, the vacancy shall be filled by the relevant Provincial Executive Committee.

8.2.2.7 Any councillor or alternate appointed in terms of clause 8.2.2.6 to fill a vacancy shall serve in this capacity for the unexpired period of the predecessor.

8.2.2.8 Should a Provincial Executive Committee be suspended or dissolved the councillors representing that Province shall vacate their seats, provided that the National Executive Committee shall have the right to select councillors from that Province.

8.2.3 Term of office

The members of the National Council shall take office at the conclusion of a normal National Congress and shall continue in office for a period of three years until the end of the next normal National Congress.

8.2.4 Meetings

8.2.4.1 Meetings of the National Council shall be held at a time and place to be determined by the National Executive Committee provided that the National Council shall meet at least once in each year in which the National Congress does not meet.

8.2.4.2 The meeting procedures contained in clause 13 shall apply to all meetings of the National Council with the necessary changes required, except for the provisions pertaining to Special meetings of the National Council contained in this clause 8.2.

8.2.4.3 The following matters shall *inter alia* be dealt with at meetings of the National Council:

- (a) the reports of the President and the Executive Director;
- (b) the approval of amendments to the Constitution;
- (c) decisions regarding the income of the Union; and
- (d) any other relevant issues including matters referred to National Council by the National Congress, the President, National Executive Committee and Provinces of the Union.

8.2.4.4 A Special Meeting of the National Council shall convene at a date and venue to be determined by the President within 30 days from the date of a written request to him/her by a Provincial Executive Committee, approved by Provincial Executive Committees representing more than 50% (fifty percent) of the members of the Union, unless a meeting has already been scheduled to take place within 30 days as from the date of such request.

8.2.4.5 The President may authorise shorter notice of a Special Meeting should all the Members of the National Council consent to such shorter notice.

8.3 NATIONAL EXECUTIVE COMMITTEE (NEC)

8.3.1 Composition

8.3.1.1 The National Executive Committee shall comprise–

- (a) The President (as Chairperson);
- (b) The Deputy President;
- (c) The Vice-President;
- (d) The Chairperson of each Province;
- (e) The Chairperson of each National Portfolio Committee
- (f) The Executive Director ((ex officio); and
- (g) The Provincial Chief Executive Officers (ex officio) of those provinces where such a post has been established;

provided that at least 40% of the members of the Committee are from marginalised groups.

8.3.1.2 If a vacancy on the National Executive Committee occurs for whatever reason the structure whose member has vacated a position shall be required to nominate a replacement. The person appointed to fill a vacancy shall continue in this position for the remainder of the period of the appointment of the predecessor.

8.3.1.3 Any member of the National Executive Committee who fails to attend two consecutive meetings of the National Executive Committee without having tendered apologies shall be deemed to have forfeited membership of this Committee.

8.3.2 Term of office

The members of the National Executive Committee shall take office at the conclusion of the National Congress and shall continue in office for a period of three years until the end of the next normal National Congress.

8.3.3 Meetings

8.3.3.1 The National Executive Committee shall meet at such times and places as are determined by the National Executive Committee provided that it shall meet at least three times per year.

8.3.3.2 The meeting procedures contained in clause 13 shall apply to all meetings of the National Executive Committee with the necessary changes required.

8.3.4 Powers and functions

8.3.4.1 The National Executive Committee shall have custody and control of the funds of the Union, shall govern the affairs of the Union and shall be entitled to do on behalf of the Union all such things as the Union is empowered to do as directed by the National Congress and/or the National Council, save and except such things or acts as may be expressly required by this Constitution to be otherwise performed.

8.3.4.2 The National Executive Committee shall be empowered-

- (a) to receive and consider reports of the National Standing Committee, National Portfolio Committees, other National Committees of the Union, Provincial Executive Committees and ad hoc Committees of the Union, National Bodies, National Councils or Committees;
- (b) to appoint representatives of the Union on any national body, national council or committee on which the Union is entitled, or invited, to be represented;
- (c) to consider and recommend to the National Congress or the National Council Rules governing procedures of any kind in the Union;
- (d) to appoint sub-committees from time to time, provided that members of sub-committees shall not necessarily be members of the National Executive Committee and that the chairperson shall be appointed by the National Executive Committee;
- (e) to deal with the following financial matters:
 - (i) consider and approve an annual budget for the Union;
 - (ii) consider and approve the financial statements of the previous financial year;
 - (iii) consider and approve the audited annual financial statements of the Union;
 - (iv) appoint auditors for the Union; and
 - (v) explore all possible sources of revenue for the Union, substantially the whole of which will be derived from the annual or other long-term members of the Union or from an appropriation by the government of the Republic in the national, provincial or local sphere; and

- (vi) establish and/or administer group schemes and other benefits for members of the Union;
- (f) to acquire by purchase, exchange, donations, lease or in any other manner, movable or immovable property, and to dispose of the same by sale or in any such manner as may from time to time be determined by the National Council or the National Executive Committee;
- (g) to raise or borrow moneys for the purposes of the Union, to enter into contracts and/or incur liabilities on behalf of the Union upon such security as the National Executive Committee may determine, including the hypothecation, mortgage or exchange of all or any of the Union's property and assets;
- (h) to make funds available for, and decide on, investments in terms of the clauses on Finance hereinafter;
- (i) to lend money with or without interest and on such security as may be determined;
- (j) to make such donations and payments for the carrying out of the goals of the Union;
- (k) to pay such honoraria to Office Bearers of the Union as may be determined;
- (l) to initiate and undertake the publication of an educational journal and/or newsletter relevant to the Union;
- (m) to make representations to Employers and the educational authorities in connection with conditions of service of educators and education sector employees and on any other matters concerning education in general;
- (n) to call any special conference for any specific purpose at any time;
- (o) to appoint a legal advisor(s) to the Union and to consult such advisor(s) when necessary;
- (p) where a provincial structure is unable to function in terms of this Constitution, to recommend to the National Council to dissolve the provincial structure and establish a new structure, in consultation with the members in that province, within 30 days of the dissolution of the previous structure;

- (q) to call a strike, subject to the provisions of clause 21.3.1;
- (r) to assume the control of the governance of a Province where that Province has been declared as not having the capacity to govern its own affairs or where the Provincial Standing and Executive Committees have been suspended;
- (s) to co-opt a maximum of 3 (three) members with identified expertise for a period not exceeding the term of office of the National Executive Committee. Members who are co-opted shall not have the right to vote.
- (t) to perform any disciplinary processes and procedures as contained in this Constitution and/or its Rules.
- (u) to generally perform all such functions as may be delegated to it by National Council and National Congress; and
- (v) to delegate powers to subordinate structures.

8.4 NATIONAL STANDING COMMITTEE (NSC)

8.4.1 Composition

8.4.1.1 The National Standing Committee shall comprise the following members:

- (a) The President (as Chairperson);
- (b) The Deputy President;
- (c) The Vice-President;
- (d) The Chairpersons of the Provinces; and
- (e) The Executive Director (ex officio);

provided that at least 40% of the members of the Committee are from marginalised groups.

8.4.1.2 If a vacancy occurs on the National Standing Committee for any reason whatsoever it shall be filled subject to the provisions of this Constitution.

8.4.2 Term of office

The members of the National Standing Committee shall take office at the conclusion of the National Congress and shall continue in office for a period of three years until the end of the next normal National Congress.

8.4.3 Meetings

8.4.3.1 The National Standing Committee shall meet at such times and places, and in such manner, as are determined by Chairperson provided that it shall meet at least four times per year.

8.4.3.2 The meeting procedures contained in clause 13 shall apply to all meetings of the National Standing Committee with the necessary changes required.

8.4.4 Powers and functions

8.4.4.1 The day to day governance of the affairs of the Union between meetings of the National Executive Committee shall be conducted by the National Standing Committee who remain responsible to the National Executive Committee.

8.4.4.2 In matters of urgency the National Standing Committee shall have the power to act for the National Executive Committee but shall always remain accountable to them.

8.4.4.3 The National Standing Committee shall be empowered -

- (a) to receive and consider reports of National Portfolio Committees and ad hoc Committees of the Union as directed by the National Executive Committee;
- (b) to appoint representatives of the Union on any National Body, National Council or Committee on which the Union is entitled, or invited, to be represented subject to approval by the National Executive Committee;
- (c) to appoint a standing Disciplinary Committee, consisting of three of its members (also three alternates), of which one should be appointed chairperson, to perform the functions referred to in clause 15.3.1. read with clause 15.3.2.1;
- (d) to make representations to Employers and the educational authorities in connection with conditions of service of educators and education sector employees and on any other matters concerning education in general subject to approval by the National Executive Committee;

- (e) to consult with legal advisor(s) when necessary; and
- (f) to generally perform all such functions as may be delegated to it by the National Executive Committee, National Council and National Congress.

8.5 NATIONAL FINANCE AND HUMAN RESOURCES COMMITTEES

8.5.1 The National Finance Committee

8.5.1.1 The National Finance Committee shall consist of the following persons:

- (a) The Deputy President of the Union as Chairperson;
- (b) The President;
- (c) The Vice-President;
- (d) The Chairpersons of the Provinces
- (e) The Deputy Chairperson of each province who is Chairperson of his/her Provincial Finance Committee;
- (f) A maximum of two additional persons appointed by the National Executive Committee; and
- (g) The Executive Director (ex officio).

8.5.1.2 The National Finance Committee shall meet before all ordinary meetings of the National Executive Committee and at any other time as determined by the Chairperson, provided that it shall meet at least four times per year.

8.5.1.3 The National Finance Committee shall-

- (a) manage the financial business of the Union, acting under policy established by the National Congress and the National Council and in terms of the Constitution.
- (b) submit a report and financial statements to every ordinary meeting of the National Executive and National Standing Committees; and
- (c) together with the Executive Director, cause to be drawn up the annual, audited financial statements of the Union for presentation to a meeting of the National Executive Committee.

8.5.2 The National Human Resources Committee

8.5.2.1 The National Human Resources Committee shall consist of:

- (a) The Vice-President as Chairperson;
- (b) The Chairperson of each Provincial Human Resources Committee;

- (c) The Executive Director (ex officio); and
- (d) Two representatives elected by members of staff of the Union.

8.5.2.2 The National Human Resources Committee shall advise the National Executive Committee on the conditions of service of all members of staff of the Union and shall meet at least twice per year.

8.6 NATIONAL PORTFOLIO COMMITTEES

8.6.1 The Union shall have the following National Portfolio Committees:

- (a) Membership Matters Committee;
- (b) Professional Matters which shall include, but shall not be limited to, curriculum matters; professional support groups in learning areas and subjects;
- (c) Conditions of Service and Public Service Matters Committee;
- (d) Special Education Committee; and
- (e) Department of Higher Education and Training (DHET) Committee

8.6.2 Each Province shall be represented on each National Portfolio Committee by the chairperson of the corresponding Portfolio Committee in the Province, provided that, if a Provincial Executive Committee wishes to nominate additional persons to a National Portfolio Committee, the National Executive Committee shall have the right to approve, on such terms and conditions as it may determine, or not to approve the additional nominations. The Executive Director or his nominee shall serve ex officio on each National Portfolio Committee.

8.6.3 A National Portfolio Committee shall elect its own Chairperson from among its members at or before the National Congress in an election year and shall function subject to the provisions of this Constitution and within the scope of policy laid down by the National Congress, National Council and the National Executive Committee.

8.6.4 Any vacancy in a National Portfolio Committee shall be filled by the relevant Provincial Executive Committee for the unexpired period.

8.6.5 A member of a National Portfolio Committee shall be appointed for a period of three years. The members of a National Portfolio Committee shall take office at the conclusion of a normal National Congress and shall continue as members of that National Portfolio Committee for a period of three years until the end of the next normal National Congress.

8.6.6 A National Portfolio Committee shall meet at least two times each year and shall report to the National Executive Committee on its work and each year shall present a written report on its activities to the

National Council and shall report to each meeting of National Congress.

8.6.7 The National Executive Committee shall have the right to create additional National Portfolio Committees or to dissolve existing ones.

8.6.8 The National Executive Committee shall determine the terms of reference of each National Portfolio Committee.

9 PROVINCIAL STRUCTURES

9.1 ANNUAL PROVINCIAL CONFERENCE

9.1.1 Authority

The Annual Provincial Conference shall be the highest governing and decision-making authority of the Province.

9.1.2 Composition

9.1.2.1 The following persons shall constitute the Annual Provincial Conference:

- (a) The Chairperson of the Province
- (b) The Deputy Chairperson
- (c) The Vice-chairperson
- (d) Other members of the Provincial Executive Committee
- (e) Delegates elected to represent each branch in the province
- (f) The PCEO (ex officio);

provided at least 30% of the attendees of the Provincial Conference are from marginalised groups.

9.1.2.2 Members of the National Executive Leadership and the Executive Director shall be entitled to attend the Provincial Annual Conference as ex officio delegates.

9.1.2.3 The number of delegates elected to represent each branch in the Annual Provincial Conference, shall be determined by the Provincial Executive Committee, provided that all branches will be entitled to representation on a proportional basis with due regard to the inclusivity of each division within the education sector and provided further that the delegate representation of each branch consists of at least 50% members from marginalised groups.

9.1.2.4 All members shall have the right to attend the Annual Provincial Conference as observers provided that the Provincial Executive Committee has the right, for logistical purposes, to limit this number. Observers shall have the right to speak at Conference but not to vote.

9.1.3 Meetings

9.1.3.1 The Annual Provincial Conference shall be held at a time and place to be determined by the Provincial Executive Committee subject to directives by the National Executive Committee; provided that in any year when elections are held for the National Executive Leadership the Annual Provincial Conference must be held at least four weeks prior to the National Congress at which such elections are due to be held.

9.1.3.2 The meeting procedures contained in clause 13 shall apply to all meetings of the Annual Provincial Conference with the necessary changes required.

9.1.3.3 The Annual Provincial Conference will, apart from the election of the Provincial Executive Leadership in any year when elections are scheduled for the National Executive Leadership, deal with the following matters:

- (a) Reports of the Chairperson of the province and the Provincial Chief Executive Officer;
- (b) Issues and motions referred to it by national structures;
- (c) Motions tabled via the Provincial Executive Committee; and
- (d) Any other relevant issue falling within its power of authority.

9.2 PROVINCIAL EXECUTIVE COMMITTEE

9.2.1 Authority

The Provincial Executive Committee shall have custody and control of the funds of the Province, shall govern the affairs of the Province and shall be entitled to do on behalf of the Province all such things that the Province is empowered to do, subject to clause 7.3.

9.2.2 Composition

9.2.2.1 The Provincial Executive Committee shall consist of the following persons:

- (a) The Chairperson of the Province;
- (b) The Deputy Chairperson;
- (c) The Vice-Chairperson;
- (d) The Chairpersons of Portfolio Committees of the Province
- (e) The Chairperson, or his/her alternate, and one other representative from each Branch, provided that each Branch shall be represented by at least one female member;
- (f) The Provincial Chief Executive Officer (ex officio); and

(g) Any member of the Province elected to the National Council or National Executive/Standing Committees of the Union; provided at least 40% of the members of the Committee are from marginalised groups.

9.2.2.2 The Provincial Executive Committee shall have the power to co-opt a member with identified expertise to address a specific matter on the agenda of the Provincial Executive Committee – such member shall have no vote.

9.2.2.3 In the event of a vacancy occurring on the Provincial Executive Committee, for any reason including withdrawal, termination, death, resignation, insolvency, disqualification of the individual or if the person concerned ceases to be a member of the Union, the Provincial Executive Committee shall request the same branch or Portfolio Committee, whichever is applicable, to elect a member to replace the member who vacated the position. Any person so elected shall hold office only until the normal expiry of the term of office of his/her predecessor.

9.2.3 Term of office

The members of the Provincial Executive Committee shall take office at the conclusion of an Annual Provincial Conference and shall continue in office for three years until the end of that Annual Provincial Conference, provided that the term of office shall commence in the same year as the National Congress is held.

9.2.4 Meetings

9.2.4.1 The Provincial Executive Committee shall meet at such times and places as determined by the Provincial Executive Committee, but not fewer than four times per year.

9.2.4.2 The meeting procedures contained in clause 13 shall apply to all meetings of the Provincial Executive Committee with the necessary changes required.

9.2.5 Powers and functions

9.2.5.1 The powers and functions of the Provincial Executive Committee, exercised subject to clause 7.3, shall be-

(a) to receive and consider reports of Provincial Conferences, Provincial Bodies, Councils or Committees and any other relevant reports;

- (b) to appoint representatives of the Province on any provincial body, council or committee on which the Province is entitled or invited to serve;
- (c) to consider and lay down Rules, to be approved by the National Executive Committee, governing procedures of any kind in the Province;
- (d) to appoint sub-committees from time to time, provided that members of sub-committees shall not necessarily be members of the Provincial Executive Committee and that the chairperson shall be appointed by the Provincial Executive Committee;
- (e) to deal with the following financial matters:
 - (i) consider and approve an annual provincial budget compiled by the Provincial Finance Committee;
 - (ii) consider and approve the financial statements of the province from time to time as well as the previous financial year;
 - (iii) consider the report of the auditor in respect of the financial statements of the Union;
 - (iv) administer group schemes and other benefits for members of the Province; and
 - (v) make a recommendation to the National Executive Committee on the appointment of the national auditor.
- (f) to recommend to the National Executive Committee the acquisition by purchase, exchange, donations, lease or in any other manner, movable or immovable property, and to recommend to the National Executive Committee the disposal of the same by sale or in any such manner as may from time to time be determined by the National Executive Committee;
- (g) to raise or borrow moneys, with the permission of the National Executive Committee, for the purposes, contracts or liabilities of the Province upon such security as the National Executive Committee may determine;
- (h) to invest and deal with the moneys of the Province not immediately required, upon such securities and in such a

manner as may from time to time be determined by the Provincial Executive Committee, and to acquire any rights, privileges or property which the Province may regard as necessary or convenient for its purposes;

- (i) to lend money with or without interest and on such security as the Provincial Executive Committee shall decide;
- (j) to make such donations for the carrying out of the objects of the Union as the Provincial Executive Committee shall decide;
- (k) to initiate and undertake the publication of a newsletter relevant to the Province;
- (l) to make representations to the educational authorities in the Province in connection with conditions of service of educators and non-educators as well as any other matters related to education;
- (m) to call any special Provincial Conference for any specific purpose at any time;
- (n) to ensure the effective operation of the Provincial structures and all committees;
- (o) to appoint a legal advisor to the Province; and
- (p) to perform any disciplinary processes and procedures as contained in this Constitution and/or its Rules.

9.3 PROVINCIAL STANDING COMMITTEE

9.3.1 Composition

9.3.1.1 The Provincial Standing Committee shall consist of the following persons:

- (a) The Chairperson of the Province;
 - (b) The Deputy Chairperson;
 - (c) The Vice-Chairperson;
 - (d) Three members of the Provincial Executive Committee elected by the Provincial Executive Committee; and
 - (e) The Provincial Chief Executive Officer (ex officio);
- provided at least 40% of the members of the Committee are from marginalised groups.

9.3.1.2 In the event of a vacancy occurring on the Provincial Standing Committee, for any reason including withdrawal, termination, death, resignation, insolvency, disqualification of the individual or if the person concerned ceases to be a member of the Union, the Provincial Executive Committee shall elect a member of the Provincial Executive Committee to fill the vacancy. Any person so elected shall hold office only until the normal expiry of the term of office of his/her predecessor.

9.3.2 Term of office

The members of the Provincial Standing Committee shall take office at the end of the Annual Provincial Conference held in the same year as elections are held for the National Executive Leadership of the Union and shall continue in office for three years until the end that Annual Provincial Conference.

9.3.3 Meetings

9.3.3.1 The Provincial Standing Committee shall meet at such times and places as are determined by the Chairperson.

9.3.3.2 The meeting procedures contained in clause 13 shall apply to all meetings of the Provincial Standing Committee with the necessary changes required.

9.3.4 Powers and functions

9.3.4.1 The day-to-day governance of the affairs of the Union between meetings of the Provincial Executive Committee in the Province shall be conducted by the Provincial Standing Committee which remains accountable to the Provincial Executive Committee.

9.3.4.2 In matters of urgency the Provincial Standing Committee shall have the power to act for the Provincial Executive Committee, but shall always remain accountable to them.

9.3.4.3 The Provincial Standing Committee shall appoint a Disciplinary Panel, consisting of three of its members (also three alternates), of which one should be appointed chairperson, to perform the functions referred to in clause 15.3.1.

9.4 PROVINCIAL FINANCE AND HUMAN RESOURCES COMMITTEES

9.4.1 Provincial Finance Committee

9.4.1.1 The Provincial Finance Committee shall consist of the following persons:

- (a) The Deputy Chairperson of the Province as Chairperson;
- (b) The remaining members of the Provincial Standing Committee;
- (c) A maximum of two additional members appointed by the Provincial Executive Committee; and

9.4.1.2 The Provincial Finance Committee shall meet before ordinary meetings of the Provincial Executive Committee and at other times as determined by the Chairperson of the Province, provided that it shall meet at least four times per year.

9.4.1.3 The Provincial Finance Committee shall –

- (a) manage the financial business of the Union in the Province;
- (b) together with the Provincial Chief Executive Officer, draw up the annual financial statements of the Province for presentation to a meeting of the Provincial Executive Committee; and
- (c) submit a report and financial statements to every ordinary meeting of the Provincial Executive Committee and submit copies of such statements to the National Executive Committee.

9.4.2 Provincial Human Resources Committee

9.4.2.1 The Provincial Human Resources Committee shall consist of the following persons:

- (a) The Vice-Chairperson of the Province as Chairperson;
- (b) The rest of the members of the Provincial Standing Committee;
- (c) The Provincial Chief Executive Officer (ex officio); and
- (d) An elected representative of the members of staff of the Province.

9.4.2.2 The Provincial Human Resources Committee shall meet at least two times per year.

9.4.2.3 The Provincial Human Resources Committee shall advise the Provincial Executive Committee on the conditions of service of members of staff of the Union within the Province.

9.5 PROVINCIAL PORTFOLIO COMMITTEES

- 9.5.1 The Province shall have the same Provincial Portfolio Committees as those provided for in this Constitution and any others approved by the National Executive Committee at a national level.
- 9.5.2 Each Branch may nominate at least one person to serve on a Provincial Portfolio Committee, provided that, if more than one person is nominated by a Branch, the Provincial Executive Committee shall have the right to approve or not to approve the additional nominations.
- 9.5.3 A Provincial Portfolio Committee shall elect its own Chairperson at or before the Annual Provincial Conference in an election year from among its members.
- 9.5.4 A Provincial Portfolio Committee shall function within the scope of policy laid down by the Annual Provincial Conference, the National Congress, the National Council, and the National Executive Committee of the Union.
- 9.5.5 Any vacancy in a Provincial Portfolio Committee shall be filled by the Branch concerned, for the balance of the unexpired period.
- 9.5.6 A Provincial Portfolio Committee shall, if required, submit an annual budget to the Provincial Finance Committee for approval by the Provincial Executive Committee.
- 9.5.7 A member of a Provincial Portfolio Committee shall be appointed for a period of three years which shall coincide with the period of office of the Provincial Executive Committee.
- 9.5.8 A Provincial Portfolio Committee shall report to the Provincial Executive Committee and the National Portfolio Committee on its work and present a written report on its activities each year to the Provincial Annual Conference.
- 9.5.9 A Provincial Portfolio Committee shall meet at least two times each year.
- 9.5.10 A quorum of a meeting of a Provincial Portfolio Committee shall be twenty percent (20%) of the members of the committee provided that only one member per Branch shall be counted for the purposes of a quorum.

9.6 PROVINCE UNDER CURATORSHIP

In a province where the National Executive Committee has, in terms of this Constitution, resolved that a province does not have the financial resources and/or capacity to administer some or all of the powers and functions of the Union in the province, the structures of the Union in the province shall report to the National Executive Committee or a Provincial Executive Committee of a province appointed for this purpose, depending on the decision of the National Executive Committee, and to the extent as determined by the National Executive Committee. Members of staff employed in such a province shall report to the Executive Director or the relevant Provincial Chief Executive Officer.

10. BRANCH STRUCTURES

10.1 GENERAL

- 10.1.1 A Province shall, for organisational purposes, be divided into branches that shall, as far as possible, mirror the education districts in a Province.
- 10.1.2 The name of a Branch shall be approved by the Provincial Executive Committee of the Province.
- 10.1.3 The Provincial Executive Committee may, for reasons of organisation and communication request the approval of the National Executive Committee to group branches into Regions within the Province.
- 10.1.4 The meeting procedures contained in clause 13 shall apply to all meetings of Branch structures with the necessary changes required, whilst the Standing Orders of the Union shall be used at all General and Annual General Meetings of the Branch and may be used at meetings of the Branch Committee and other Committees.
- 10.1.5 On dissolution of a Branch by the Provincial Executive Committee all documents and funds shall be sent to the Chief Executive Officer of the Province.
- 10.1.6 The affairs of the Union at Branch level shall be managed and its activities performed by the following structures:

10.2 BRANCH ANNUAL GENERAL MEETING

10.2.1 Meeting

- 10.2.1.1 A Branch Annual General Meeting shall be called by the Chairperson of the Branch each year.

10.2.1.2 The Branch Annual General Meeting shall be held at least six weeks before the Annual Provincial Conference and may be attended by all members of the Branch.

10.2.2 Quorum

A quorum shall be five per cent (5%) of the members of the Branch and members from ten percent (10%) of the schools, sites, campuses, offices or educational institutions in the Branch.

10.2.3 Powers

The powers of the Branch Annual General Meeting shall be the following:

- (a) To elect the Branch Leadership in the same year as the election of the Provincial Executive Leadership;
- (b) To elect the additional representative to the Provincial Executive Committee;
- (c) To elect representatives of the Branch to the Provincial Portfolio Committees;
- (d) To appoint Branch delegates to the Provincial Annual Conference;
- (e) In an election year, to approve any nominations for the positions of Provincial Chairperson and/or Deputy Chairperson and/or Vice-Chairperson; and
- (f) To debate any motions which, if adopted, may be forwarded to the Provincial Office for consideration by either the Provincial Executive Committee or the Provincial Annual Conference.

10.3 BRANCH COMMITTEE

10.3.1 Composition

Subject to clause 9.2.2.1 (e), the Branch Committee shall consist of the following persons:

- (a) The Chairperson;
- (b) The Deputy Chairperson;
- (c) The Secretary;
- (d) The Assistant Secretary (if elected);
- (e) The Treasurer; and
- (f) The persons elected/nominated to serve on each of the Provincial Portfolio Committees; provided at least 40% are from marginalised groups.

10.3.2 Term of office

10.3.2.1 The members of the Branch Committee shall take office after the Annual Provincial Conference at which Provincial elections for the Provincial Executive Leadership are held.

10.3.2.2 In the event of a vacancy occurring among members of the Branch Committee the vacancy must be filled within 6 weeks of becoming vacant.

10.3.3 Meetings

The Branch Committee shall meet at the summons of the Chairperson but not less than four times per year.

10.3.4 Powers and functions

The Branch Committee is empowered to-

- (a) deal with all business referred to it which it is competent to deal with;
- (b) remove a member of the Committee if such member has failed to attend three consecutive meetings of the Committee without leave of absence; and
- (c) to co-opt members of the Branch and to fill vacancies which may occur in any Committee within the Branch.

10.4 BRANCH REPRESENTATIVES AND MEMBERS MEETINGS (MEETING OF THE BRANCH)

10.4.1 Composition

The Branch Representatives and Members meeting shall consist of:

- (a) The Branch Committee, with the Chairperson of the Branch as Chairperson;
- (b) The representative from each school, site, campus, office or educational institution within the Branch which has members of the Union employed at that school, site, campus, office or educational institution; and
- (c) Any member of the Branch.

10.4.2 Meetings

The Branch Representatives and Members Meeting shall convene at the summons of the Chairperson but not less than three times per year.

10.4.3 Quorum

A quorum shall be five per cent (5%) of members of the Branch and ten percent (10%) of the Union Representatives in the Branch.

10.4.4 Powers and functions

The Branch Representatives and Members Meeting is empowered to-

- (a) deal with all business referred to it by the Branch Committee; and
- (b) deal with training, information and other related issues involving labour relations and conditions of service.

10.5 UNION REPRESENTATIVES MEETING

10.5.1 Every school, site, campus, office or educational institution, which has Union members, shall, within the first two weeks of the first term of each academic school year, meet to elect a Union representative.

10.5.2 Only paid-up Union members may participate in the election and shall have the right to nominate or second members for election as Union representative.

10.5.3 The main duties of the Union representative shall be –

- (a) to assist Union members at the school, site, campus, office or educational institution in handling conditions of service problems;
- (b) to represent the Union on School committees where a Union representative is required;
- (c) to assist the Union and/or the Provincial office in its communication with Union members;
- (d) to assist with any labour relation problems which may arise at the school, site, campus, office or educational institution and which affect Union members;
- (e) to call meetings for Union members at the school, site, campus, office or educational institution;

- (f) to represent the Union members at branch meetings; and
- (g) to perform such tasks as may reasonably be requested by the Provincial Executive, Provincial Standing or Branch Committees.

11 UNION LEADERSHIP

11.1 NATIONAL EXECUTIVE LEADERSHIP

11.1.1 Composition

The National Executive Leadership of the Union shall be the President, the Deputy President and the Vice-President, provided at least one of the positions is filled by a member from marginalised groups.

11.1.2 Nominations

11.1.2.1 Nominations for the positions of President, Deputy President and Vice-President shall be submitted to the Executive Director at least 60 days prior to the elective National Congress meeting.

11.1.2.2 A nomination shall be deemed to be valid if -

- (a) a nomination is made by a Provincial Executive Committee and seconded by at least one other Provincial Executive Committee;
- (b) the nomination is signed by the nominee consenting to the nomination; and
- (c) the person nominated is a delegate to National Congress.

11.1.3 Elections

11.1.3.1 At, or, if the National Executive Committee so decides, not earlier than 14 days before a normal meeting of the National Congress, the constituent members shall elect one delegate as President, one delegate as Deputy President and one delegate as Vice-President: provided that each of these members of the National Executive Leaders shall be drawn from a different Province.

11.1.3.2 The election procedures contained in clause 14 shall apply to the election of the National Executive Leadership with the necessary changes required.

11.1.4 Term of office

- 11.1.4.1 The President, the Deputy President and Vice-President shall hold office in the relevant capacity for a period of three years.
- 11.1.4.2 A person whose term of office as President of the Union has expired shall be eligible for re-election for one further consecutive term of office. Such a person shall again become eligible for election as President after a further term of office (of another President) has expired.
- 11.1.4.3 The Deputy President and Vice-President may be re-elected to the same offices after expiry of the term of office.

11.1.5 Removal from office

The President, Deputy President or Vice-President may be removed from office by a decision, passed by a two-thirds majority, of National Congress, or a Special National Congress, called for this purpose, provided that any such motion shall have been circulated among all delegates at least 30 days before such National Congress or Special National Congress, meeting.

11.1.6 Vacancy

- 11.1.6.1 Should a vacancy arise for any reason including withdrawal, termination, death, resignation, insolvency, disqualification of the individual or if the person concerned ceases to be a member of the Union, the National Executive Committee shall elect a person to fill the position(s) from among the current constituent members of the National Council until the next National Congress. Any person so elected to fill a vacancy shall hold office only until the normal expiry of the term of his/her predecessor.
- 11.1.6.2 The President, Deputy President or Vice-President shall be deemed to have resigned if the person concerned ceases to be a member of the Union.
- 11.1.6.3 If a member who already holds an elected position of Chairperson, Deputy Chairperson or Vice- Chairperson in a Province is elected to one of the offices of President, Deputy President or Vice-President that member shall immediately vacate the relevant position in the Province.

11.1.7 Powers and functions

11.1.7.1 The President

11.1.7.1.1 In addition to powers and functions specified elsewhere in this Constitution, the President shall have the following powers and functions, which may be delegated:

- (a) to preside as chairperson over meetings of the National Congress, National Council, National Executive Committee and National Standing Committee;
- (b) to attend meetings of any other committee of the Union in an ex officio capacity;
- (c) to act as the sole spokesperson for the Union provided that no statements shall be made in conflict with the policy of the Union;
- (d) to call meetings of the structures of the Union as determined in this Constitution;
- (e) to refer any matter to the Executive Director for attention; and
- (f) to call for and receive reports from national committees and the Executive Director.

11.1.7.2 The Deputy President

11.1.7.2.1 The Deputy President shall preside as chairperson over meetings of the National Finance Committee.

11.1.7.2.2 The Deputy President shall in the absence of the President chair meetings of national structures.

11.1.7.3 The Vice-President

11.1.7.3.1 The Vice-President shall preside as chairperson over meetings of the National Human Resources Committee.

11.1.7.3.2 The Vice-President shall in the absence of both the President and Deputy President chair meetings of national structures.

11.2 PROVINCIAL EXECUTIVE LEADERSHIP

11.2.1 Composition

The Provincial Executive Leadership shall be the Chairperson, the Deputy Chairperson and the Vice-Chairperson and shall be elected at the Annual Provincial Conference in the year in which the Union shall hold its elections for the National Executive Leadership, provided at least one of the positions is filled by a member from marginalised groups.

11.2.2 Nominations

11.2.2.1 Each Branch may nominate a maximum of one member for each of the positions of Chairperson, Deputy Chairperson and Vice-Chairperson.

11.2.2.2 For a nomination to be valid the nominee –

- (a) has to be nominated by at least two branches; and
- (b) shall have served on the Provincial Executive Committee of the Province for at least three of the preceding six years.
- c) A member from a marginalised group must have been active in a structure of the union for at least one year.

11.2.2.3 Nominations must be submitted to the Provincial Chief Executive Officer at least 21 days prior to the elective Annual Provincial Conference meeting.

11.2.3 Elections

11.2.3.1 At, or, if the Provincial Executive Committee so decides, not earlier than 14 days before, the Annual Provincial Conference, in the year in which the Union shall elect its National Executive Leadership, the delegates shall elect a Chairperson, Deputy Chairperson and Vice-Chairperson; provided that each of these members of the Provincial Executive Leadership shall be drawn from a different branch, where there are three or more branches in the province.

11.2.3.2 The general election provisions in clause 14 shall apply to the election of the Provincial Executive Leadership.

11.2.4 Term of office

- 11.2.4.1 The Chairperson, Deputy Chairperson and Vice-Chairperson of a Province shall each hold office for three years, which term of office shall commence at the end of the Annual Provincial Conference held in the same year as elections are held for the National Executive Leadership of the Union.
- 11.2.4.2 Should a Chairperson, Deputy Chairperson or Vice-Chairperson subsequently be elected to any of the positions of President, Deputy President or Vice-President of the Union he/she shall vacate his/her position in the Province and the vacancy shall be filled in accordance with this Constitution.
- 11.2.4.3 A Chairperson of a Province whose term of office has expired shall be eligible for re-election for one further consecutive term of office. He/she shall again become eligible after a further term of office (of another Chairperson) has expired.
- 11.2.4.4 A Deputy Chairperson and a Vice-chairperson may be appointed for further consecutive terms of office.

11.2.5 Vacancy

In the event of a vacancy of Chairperson, Deputy Chairperson or Vice chairperson occurring for any reason, including election to a National Executive Leadership position or another Provincial Executive Leadership position, withdrawal, termination, death, resignation, insolvency, disqualification or loss of membership of the Union, the Provincial Executive Committee shall elect a member of the Provincial Executive Committee to fill the vacancy. Any person so elected shall hold office only until the normal expiry of the term of office of his/her predecessor. Such period shall not be regarded as a term of office.

11.2.6 Rights and Functions of the Provincial Executive Leadership

11.2.6.1 The Chairperson

The Chairperson of a Province shall-

- (a) chair meetings of the Annual Provincial Conference, the Provincial Executive Committee and the Provincial Standing Committee;
- (b) have the right to attend meetings of all committees and sub-committees of the Province;

- (c) have the right to speak on behalf of the Union in the Province and shall be empowered to delegate this right; provided that no public statements shall be made which conflict with policies of the Union;
- (d) have the power to call meetings of the structures of the province as determined in this Constitution;
- (e) have the right to refer any matter to the Provincial Chief Executive Officer for attention; and
- (f) have the right to call for and receive reports from provincial committees sub-committees or branches and the Provincial Chief Executive Officer.

11.2.6.2 The Deputy Chairperson

The Deputy Chairperson shall –

- (a) chair the Provincial Finance Committee; and
- (b) perform such other duties as may be determined by the Provincial Executive Committee.

11.2.6.3 The Vice-Chairperson

The Vice-Chairperson shall –

- (a) chair the Provincial Human Resources Committee;
- (b) ensure that the various Portfolio Committees and sub-committees operate effectively within the province; and
- (c) perform such duties as may be determined by the Provincial Executive Committee.

11.3 BRANCH LEADERSHIP

11.3.1 Composition

Subject to clause 10.3.1, the Branch Leadership shall be the Chairperson, Deputy Chairperson, Secretary and Treasurer, provided that the Branch Annual General Meeting may decide to elect an Assistant Secretary in addition to the Secretary.

11.3.2 Nominations

Each representative at the Branch General Meeting shall have the right to nominate or second members for any of the Branch Leadership positions.

11.3.3 Elections

11.3.3.1 The Branch Leadership shall be elected at an Annual General Meeting of the Branch held in the same year as normal elections held for the National and Provincial Executive Leadership.

11.3.3.2 The general election provisions in clause 14 shall apply to the election of the Branch Leadership with the necessary changes required.

11.3.3.3 The Branch Leadership shall be eligible for re-election.

11.3.4 Term of office

The Branch leadership shall take office after the Provincial Annual Conference at which Provincial elections for Office Bearers are held.

11.3.5 Vacancy

In the event of a vacancy occurring among the Branch Leadership, the Branch Committee shall elect a member of the Branch Committee to fill the vacancy. The time frame referred to in clause 10.3.2.2 shall apply.

11.3.6 Duties, functions and rights

11.3.6.1 Chairperson

The Chairperson of a Branch shall-

- (a) call all Meetings of the Branch, provided that he shall call an Annual General Meeting, not later than six weeks before the Provincial Annual Conference;

- (b) call a meeting of the Branch Committee whenever so requested in writing by at least three members of the Branch Committee or at least fifteen members of the Branch;
- (c) prepare a written report on the activities during his/her term of office for presentation at the Annual General Meeting and shall also submit the report to the Provincial Annual Conference;
- (d) prepare a report on the activities of the Branch for presentation at each meeting of the Provincial Executive Committee; and
- (e) have the right to attend all meetings of committees appointed by the Branch Representatives and Members Meeting (Branch Meeting).

11.3.6.2 **Deputy Chairperson**

The Deputy Chairperson shall assist the Chairperson and preside in his/her absence over meetings of the Branch and of the Branch Committee.

11.3.6.3 **Secretary**

The Secretary of the Branch shall-

- (a) keep minutes of the meetings of the proceedings of the Branch Committee and General Meetings;
- (b) ensure that all documents pertaining to the Branch are kept in good custody;
- (c) conduct Branch correspondence;
- (d) forward to the Chief Executive Officer of the Province the following particulars immediately after the Annual General Meeting:
 - (i) the names of the Branch delegates to the Annual Conference of the Province;
 - (ii) motions for the Provincial Annual Conference; and
 - (iii) the annual report of the Branch Chairperson, the annual financial statement and any other documentation required by the Province;

(e) in a year in which normal Provincial elections for the Provincial Executive Leadership are due to be held, in addition to the requirements above, forward to the Chief Executive Officer of the Province the following particulars immediately after the Annual General Meeting:

- (i) the Branch nominations, if any, for the Provincial Chairperson, Deputy Chairperson and Vice-Chairperson;
- (ii) the names of the Branch Leaders;
- (iii) the name of the alternate to the Chairperson on the Provincial Executive Committee;
- (iv) the name of the Branch representative in addition to the Branch Chairperson; and
- (v) the name(s) of Provincial Portfolio Committee representatives.

11.3.6.4 Assistant Secretary (if applicable)

The Assistant Secretary shall assist the Secretary in a manner as determined by the Branch Committee.

11.3.6.5 Treasurer

The Treasurer shall in terms of procedures approved by the National Executive Committee requisition moneys authorised by the Branch Committee or by a General Meeting of the Branch from an annual grant of funds of the Union as decided by the Provincial Executive Committee.

12. MEMBERS OF STAFF OF THE UNION

12.1 GENERAL

- 12.1.1 All appointments of members of staff of the Union will be made in terms of the procedures prescribed in Annexure B to the Constitution.
- 12.1.2 The terms and conditions of employment of any person appointed as a member of staff shall be as determined by the Union, provided that the Union may determine different terms and conditions of employment for different categories of members of staff for inclusion in their relevant contracts of employment.
- 12.1.3 The Union shall not pay to any member of staff, office bearer, member or any other person any remuneration as defined in the Fourth Schedule of the Income Tax Act, which is excessive, having regard for what is generally

considered reasonable in the education sector and in relation to the service rendered.

12.2 NATIONAL LEVEL

12.2.1 The Executive Director

12.2.1.1 Appointment

The National Executive Committee shall appoint an Executive Director in accordance with the procedures prescribed in Annexure B to the Constitution.

12.2.1.2 Powers, functions and duties

12.2.1.2.1 The Executive Director shall perform all such duties as may be assigned to him by the Union. In particular the Executive Director shall be responsible for the following duties and functions, any of which may be delegated in writing subject to the approval of the National Executive Committee:

- (a) to attend the meetings of the Union and have the minutes of the meetings recorded;
- (b) to cause books of account to be kept in accordance with generally accepted accounting practice and the instructions of the Union;
- (c) to conduct all correspondence of the Union;
- (d) to keep originals of letters received and copies of those dispatched;
- (e) to bank all moneys received on behalf of the Union in terms of the Union's financial policy;
- (f) to submit statements of the financial position of the Union whenever required to do so by the Union;
- (g) to countersign cheques on the Union's banking account;
- (h) to represent the Union where necessary or appoint a nominee;

- (i) to comply with all requirements of the Labour Relations Act to provide specified information to the Registrar as well as any other requirements of other legislation to submit reports, audited financial statements of the Union and to keep certain records as specified in legislation; and
- (j) to generally perform all such functions and duties which are necessary for the daily running of the Union and which are not contrary to the directions of the Union.

12.2.1.2.2 The Executive Director shall keep in safe custody at the headquarters of the Union –

- (a) a copy of the approved minutes of every meeting of the Union, duly signed by the person who presided at the meeting at which confirmed the minutes;
- (b) the financial statements and all records in relation thereto;
- (c) the current and all past Constitutions of the Union; and
- (d) any other documentation for such periods as may be required by any applicable legislation.

12.2.1.2.3 The duties of the Executive Director may be exercised by any of the other appointed officials or member of staff of the Union acting under the directions of the Executive Director.

12.2.1.2.4 The Executive Director shall have the power to institute an enquiry into the operations and/or functioning of a provincial office provided that he has received credible information that the administration of the province has been compromised or is of the opinion that an enquiry into the administration is justified due to the non- compliance with national policy directives. Such enquiry shall only be instituted after the Provincial Executive Committee has been informed of the basis for the enquiry and after the Provincial Executive Committee has failed to act on the information. The Executive Director shall report any proposed enquiry to the National Executive Committee.

- 12.2.1.2.5 In all cases where a province received financial assistance approved by the National Executive Committee from the NAPTOSA National treasury and/or any combination of NAPTOSA provincial treasuries, the Executive Director shall have the right to monitor the administration of the province and to act if the members of staff or leadership of the province do not comply with the conditions and guidelines for the award of additional funds for the purpose of assisting the province. Such action may include the temporary withholding of additional finances and/or withdrawal of any benefits acquired by the Province until the National Executive Committee may rule on the matter. In addition, the Executive Director may refer any member of staff or National or Provincial Leader of the Union for action(s) in terms of Annexure A to the Constitution or clause 15 of the Constitution, whichever is applicable.

12.2.1.3 Reporting lines

- 12.2.1.3.1 The Executive Director shall report to the President and the National Congress, National Council, National Executive Committee and National Standing Committee.
- 12.2.1.3.2 Members of staff employed in the National Office of the Union shall report to the Executive Director.

12.2.2 Other Members of Staff at National Level

Subject to clause 12.2.1.1, the National Standing Committee shall appoint all members of staff employed in the National Office in accordance with the procedures prescribed in Annexure B to the Constitution.

12.3 PROVINCIAL LEVEL

12.3.1 Provincial Chief Executive Officer

12.3.1.1 Appointment

A Provincial Chief Executive Officer shall be appointed by the National Executive Committee acting on the recommendation of the Provincial Executive Committee and in accordance with the procedures prescribed in Annexure B to the constitution.

12.3.1.2 Powers, functions and duties

- 12.3.1.2.1 The Provincial Chief Executive Officer shall, where applicable, perform the functions referred to in clauses 12.2.1.2.1 and 12.2.1.2.2, read with the necessary changes required.
- 12.3.1.2.2 The Provincial Chief Executive Officer shall provide the Executive Director, and any other person or body entitled thereto, with information relating to the operations of the province, required by him/her/it.
- 12.3.1.2.3 The Provincial Chief Executive Officer shall, where applicable, keep in safe custody at the Provincial Offices of the Union, for periods as determined in the Rules, -
- (a) a copy of the approved minutes of the Annual Conference, the Provincial Standing Committee and the Provincial Executive Committee of the Union, duly signed by the person who presided at such meeting;
 - (b) the financial statements and all records in relation thereto, including the books of account, supporting vouchers, records of subscriptions or fees paid by members and associates, income and expenditure statements, balance sheets, and auditor's reports, in an original or reproduced form; and
 - (c) ballot papers.

12.3.1.3 Reporting lines

- 12.3.1.3.1 The Chief Executive Officer of a Province shall report to the Chairperson of the Province, the Provincial Conference, Provincial Executive Committee and Provincial Standing Committee.
- 12.3.1.3.2 The Chief Executive Officer in a province shall provide any reports to the Executive Director as required.
- 12.3.1.3.3 The members of staff of the Union employed in a province shall report to the Provincial Chief Executive Officer.

12.3.2 Other Members of Staff at Provincial Level

Subject to clause 12.3.1.1, the Provincial Standing Committee shall appoint all members of staff employed in the province in accordance with the procedures prescribed in Annexure B to the Constitution.

13. GENERAL MEETING PROVISIONS

Except if otherwise indicated in the constitution, the following general meeting provisions shall apply to meetings of the various structures of the Union:

13.1 Calling of meetings

13.1.1 The Chairperson of a structure of the Union shall call all meetings of such a structure by determining the time and place of the meeting.

13.1.2 In the case of a Branch, the Chairperson of the Branch shall call the meetings of all the Branch structures.

13.2 Notice

13.2.1 Notice of meetings of the structures of the Union shall be by way of written notice showing the business to be transacted.

13.2.2 Notice of meetings of National structures shall be given by the Executive Director at least 14 days prior to the meeting, except in the case of the National Congress and National Council where at least 30 days' notice must be given.

13.2.3 Notice of meetings of Provincial structures, excluding Branches, shall be given by the Provincial Chief Executive Officer at least 14 days prior to the meeting, except in the case of the Provincial Conference where at least 30 days' notice must be given.

13.2.4 Notice of meetings of Branch structures shall be given by the relevant secretary at least 7 days prior to the meeting.

13.2.5 It shall be deemed that due notice had been given to the Provincial members of National structures if notice of the meeting was given by:

- (a) effecting personal service of the notice on the Chief Executive Officers of the Provinces concerned;
- (b) the posting of a letter containing the notice to the Chief Executive Officers of the Provinces;

- (c) telefaxing or e-mailing the notice to the offices of the Chief Executive Officers of the Provinces provided that the telefax receipt shows that the notice was transmitted to and received by the addressee;

13.3 **Agenda**

13.3.1 An agenda for a meeting of a structure of the Union must accompany the notice of the meeting.

13.3.2 Further agenda items not included in the agenda, may be raised under the “confirmation of the agenda” item of the agenda, but may only be included in the agenda if the meeting so decides.

13.4 **Quorum**

13.4.1 A quorum of a meeting of a structure of the Union shall be more than 50% (fifty percent) of those who constitute the structure in terms of the provisions of the constitution.

13.4.2 Subject to clause 13.4.3, if within 30 minutes of the time fixed for any meeting of any structure of the Union (90 minutes in respect of National Congress meetings), a quorum is not present the meeting shall stand adjourned to a time and place to be determined by the Chairperson, provided that –

- (a) notice of such meeting be given in terms of clause 13.2
- (b) that such meeting be held within 10 working days of the date of the original meeting; and
- (c) at such reconvened meeting those present constitute a quorum.

13.4.3 If at any meeting a quorum is not present within the time indicated in clause 13.4.2, but at least forty five percent of the total number of those who constitute the structure in terms of the provisions of the constitution are present, the meeting may reconvene after one hour, and at such adjourned meeting the members present shall form a quorum.

13.4.4 If during the course of a meeting the attention of the Chairperson is drawn to the fact that a quorum does not exist, the Chairperson shall adjourn the meeting, provided that the Chairperson may rule that the meeting shall continue if those present resolve to do so.

13.5 Chairing of meetings

13.5.1 If, in meetings of National structures, where the President is the Chairperson, he/she is absent, the Deputy President, or in his/her absence, the Vice-President, shall take the chair, where applicable.

13.5.2 The Chairperson of a Province or, in his/her absence, the Deputy Chairperson or in his/her absence the Vice-Chairperson shall take the chair at all conferences and at all meetings of the Provincial Executive Committee and Provincial Standing Committee.

13.5.3 If, in any meeting of a structure of the Union the Chairperson, the Deputy Chairperson or the Vice Chairperson (where applicable), is absent, the members of that structure shall elect a member to take the chair.

13.6 Proposals

13.6.1 The Chairperson of a meeting may require that a proposal be submitted in writing and be read by him as a prerequisite to any debate or decision in respect thereof.

13.6.2 No proposal shall be considered unless it has been properly seconded.

13.7 Decisions/ Resolutions

13.7.1 All decisions/resolutions in meetings of the structures of the Union shall, unless the constitution requires a two-thirds majority, be by way of majority vote of those –

(a) present;

(b) entitled to vote; and

(c) exercising their vote

An abstention shall NOT constitute a person voting. Proxy votes shall apply only where expressly provided for in this Constitution.

13.7.2 Notwithstanding clause 13.7.1, all decisions/resolutions of the National and Provincial Executive and Standing Committees shall be by way of a majority of those **entitled to vote**.

13.7.3 Voting at, or where permissible in terms of this constitution, before a meeting, shall be conducted-

13.7.3.1 by way of a show of hands; or

13.7.3.2 in terms of an electronic voting system, approved by the National or relevant Provincial Executive Committee, whichever is applicable; or

13.7.3.3 virtually; or

13.7.3.4 in terms of Rules established on round robin voting; or

13.7.3.5 a combination of the above, provided –

- (a) in the case of the election of members of the National and Provincial Executive Leadership, Branch Leadership or representatives of members, in which case it shall be by way of a secret vote, and
- (b) if in a meeting, 25 % of those who constitute the structure in terms of the provisions of the constitution, and who attend the meeting, support a request for a secret vote.

13.7.4 Vote counts shall be as follows:

- (a) each member of a structure who is entitled to vote, shall have one vote;
- (b) a chairperson shall not have a casting vote;
- (c) ex officio members of the National and Provincial Executive and Standing Committees shall have no vote;
- (d) members of staff shall have no vote (except as an elected representative of members of staff of the Union).

13.7.5 No decisions taken at a meeting of a structure shall be invalidated by the absence of any member if notice has been properly served on such member.

13.7.6 Decisions/resolutions of a structure shall be recorded in writing in the minutes.

13.8 Minutes

13.8.1 Minutes shall be kept by the Secretary of a meeting of a structure of the Union.

13.8.2 Copies of the minutes of the meeting held immediately prior to the relevant meeting shall be circulated by the Secretary to the members who constitute the relevant structure at least 7 days before the meeting.

13.8.3 If, for whatever reason, the minutes could not be circulated as per clause 13.8.2, the Secretary of the meeting shall read the minutes at the meeting.

13.8.4 After confirmation of the minutes by the meeting, the Chairperson who chaired the relevant meeting and the Secretary of the meeting, shall sign the minutes.

13.9 Nature of meetings

All meetings of the structures of the Union shall be held in private, unless the relevant structure decides otherwise.

13.10 Special meetings

Special meetings of the structures of the Union may be called as provided for in the constitution.

13.11 Participation of non-members of structures in meetings of structures.

A person who is not a member of a structure of the Union may, with the approval of, and on such terms and conditions as decided by the structure, participate in a meeting of the structure-

- (a) if he/she has particular expertise which may be of use to the meeting; or
 - (b) as an observer;
- provided that such person shall have no vote.

14. GENERAL ELECTION PROVISIONS

Except if otherwise indicated in this constitution, the following provisions shall apply where elections to leadership positions in any of the structures of the Union are required:

14.1 An election shall be held if there are more than one nomination for any position to be filled.

14.2 The nominee who receives more than 50% of the votes shall be declared duly elected.

14.3 If no person for a position receives an outright majority, a further election shall be held at the same meeting with the two nominees who obtained the highest number of votes as the only candidates for the position.

14.4 The nominee who, during this further election, receives more than 50% of the votes shall be declared duly elected.

14.5 Where more than one position is to be filled at the same meeting, separate voting shall take place for each of the positions in declining order.

14.6 The following functionaries shall act as electoral officers for the election of the leadership positions at national, provincial and branch levels:

- (a) The Executive Director, or his/her delegate, for positions at the national level;

- (b) The Provincial Chief Executive Officer, or his/her delegate, for positions at the provincial level; and
- (c) A member of staff of the Provincial Office assigned by the Provincial Chief Executive Officer.

14.7 When an election is to be conducted as per clause 13.7.3.5(a) and the voting is to be exercised in terms of an electronic voting system or virtually, a member of the structure in respect of which the election is held, and who is not a nominee for a contested position, shall be nominated by the National Executive Committee or the Provincial Executive Committee, whichever is applicable, to verify the outcome of the different election steps to be followed by the electoral officer.

15 DISCIPLINE

15.1 Scope

The Union shall have the power to discipline any member, through its various structures, in accordance with this constitution and its rules. Members of staff shall be subject to the disciplinary code as contained in Annexure A to the constitution. Seconded members shall be subject to the disciplinary process as defined for members with the necessary changes required.

15.2 Transgressions / Misconduct

A member may be disciplined by the Union if it is alleged that he/she has-

- (a) contravened the provisions of this Constitution or its rules including (but not limited to) the principles and objectives;
- (b) acted in an improper, disgraceful or unacceptable manner, which is detrimental to the interests of the Union and/or has brought the Union into disrepute; and/or
- (c) refused to comply with a decision(s) of the Union.

15.3 Disciplinary Procedure

15.3.1 Procedure in respect of members

For purposes of this section member includes all members of NAPTOSA, irrespective of the capacity in which they might serve in the Union, BUT excluding members of the National and Provincial Executive Leadership.

15.3.1.1 Any allegation of a transgression / misconduct in terms of clause 15.2 may be brought against a member by another member or a structure of the Union or by any other competent person.

- 15.3.1.2 An allegation referred to in clause 15.2, supported by evidence, must be submitted to the relevant Provincial Chief Executive Officer.
- 15.3.1.3 The Provincial Chief Executive Officer must submit the allegation to the Disciplinary Panel of the Provincial Standing Committee of the province concerned for a decision, within 10 days, on whether or not-
- (a) an investigation into the allegation will be required;
 - (b) the member concerned must, as a precautionary measure, be suspended from membership for a defined period (which may not be longer than 2 months) to allow for the investigation, provided the member is afforded sufficient opportunity to indicate why he/she should not be suspended;
 - (c) charges must be brought against the member.
- 15.3.1.4 Once the decision has been taken to prefer charges against a member, the Provincial Chief Executive Officer must table the allegation to the next meeting of the Provincial Standing Committee, provided the member is served with a notice at least 14 days in advance of the meeting.
- 15.3.1.5 The member must be informed in the notice of the allegation and that he/she will have an opportunity to answer to the allegation to the Provincial Standing Committee in person, or in writing, and call witnesses in support of his case.
- 15.3.1.6 If the member fails to attend the meeting of the Provincial Standing Committee, the Committee will continue its consideration of the allegation in his/her absence.
- 15.3.1.7 After having considered the allegation and the member's response (where the member utilised the opportunity), the Provincial Standing Committee must decide whether or not action needs to be taken against the member. If action is required, the Provincial Standing Committee must decide on the appropriate sanction to be imposed which could be one, or a combination, of the following:
- (a) Counselling
 - (b) Warning/ reprimand
 - (c) Suspension
 - (d) Termination of membership / expulsion of member.

15.3.1.8 If a sanction of warning/ reprimand or suspension is imposed, the Provincial Standing Committee must decide the period of validity, which may not exceed 6 months.

15.3.1.9 In the case where a sanction of termination of membership/ expulsion is imposed –

- (a) the person shall not be eligible for membership of the Union for a period of 12 months.
- (b) the termination is only valid if two-thirds of the members of the Provincial Standing Committee, present in a properly constituted meeting, vote in favour of the sanction. If the two-thirds majority cannot be achieved one of the other sanctions must be imposed by way of a simple majority decision, unless clause 15.6.4 is applicable.

15.3.1.10 The Provincial Chief Executive Officer must inform the member, in writing, of the Provincial Standing Committee's decision regarding the sanction to be imposed. In the letter the member must be informed of his right to appeal to the Provincial Executive Committee within 14 days of being served with the decision of the Provincial Standing Committee.

15.3.1.11 A member that wishes to appeal the decision and / or sanction imposed by the Provincial Standing Committee must submit his/her appeal in writing to the relevant Provincial Chief Executive Officer for submission to the next meeting of the Provincial Executive Committee.

15.3.1.12 The Provincial Executive Committee can uphold, amend or dismiss the appeal. The decision of the Provincial Executive Committee is final. The Provincial Chief Executive Officer must, within 5 days of the decision of the Provincial Executive Committee, inform the member, in writing, of the outcome of his/her appeal.

15.3.2 Procedure in respect of National and Provincial Executive Leadership

15.3.2.1 The disciplinary procedure for members as contained in clause 15.3.1 will apply *mutatis mutandis*, provided that any reference to-

- (a) "member" must be read as "relevant member of the National Executive Leadership" or "relevant member of the Provincial Executive Leadership", whichever is applicable;
- (b) "Provincial Chief Executive Officer" must be read as "Executive Director";

- (c) “Provincial Standing Committee” must be read as “National Standing Committee”;
- (d) “Disciplinary Panel of the Provincial Standing Committee” must be read as “Disciplinary Panel of the National Standing Committee”; and
- (e) “Provincial Executive Committee” must be read as “National Executive Committee”.

15.4 General Disciplinary Provisions

- 15.4.1 The National Standing Committee and the National Executive Committee shall have the right to consider charges against a member referred to in clause 15.3.1, provided the relevant Provincial Standing Committee has been informed. The disciplinary procedures referred to in clause 15.3.1 will apply except that the Executive Director will substitute for the Provincial Chief Executive Officer and the structures referred to in clause 15.3.2.1 will be the relevant structures.
- 15.4.2 If a member of the National or Provincial Executive Leadership is found guilty of a transgression/ misconduct, the relevant structure must also pronounce, as part of the disciplinary decision, whether or not the term of office of the office bearer must be terminated (he/she must be removed from office) as provided for in clause 15.6.
- 15.4.3 Upon termination of membership/expulsion of a member (including members of the National or Provincial Executive Leadership), all monies due to the Union by such member shall become payable. If payment thereof is not made within thirty days the Provincial Executive Committee or National Executive Committee may take such steps as it deems necessary to secure a settlement.
- 15.4.4 A member (including a member of the National/ Provincial Executive Leadership) shall cease to be entitled to any of the benefits of membership including the right to vote –
 - (a) if membership fees or any other monies due by the member to the Union are more than three months in arrears;
 - (b) during any period while the member is under suspension in terms of this constitution;
 - (c) if the person ceases to be employed in the education sector. or
 - (d) if he/she resigns from the Union, if his/her membership of the Union has been terminated or terminated automatically in terms of clause 15.5 of the Constitution.

15.5 Automatic termination of membership

15.5.1 If a member fails, within thirty days of demand in writing by the Chief Executive Officer of the Province, to pay membership fees or levies which are more than three months in arrears, his/her membership will automatically terminate.

15.5.2 The Provincial Executive Committee or National Executive Committee may take such steps as it deems necessary to secure the repayment of all arrears.

15.5.3 A member whose membership terminated automatically in terms of clause 15.5.1 may be reinstated on the payment of all arrears.

15.6 Termination of term of office of Office Bearers (Removal from office)

15.6.1 The term of office of an office bearer **shall** terminate-

- (a) if he/she is found guilty of a transgression/ misconduct and a sanction of termination of membership has been imposed at completion of the disciplinary process (including the appeal process);
- (b) when his/her membership of the Union terminates for any reason other than (a) above;
- (c) when in the case of membership of the National Executive Committee or any Provincial Executive Committee his/her estate is sequestrated or he/she enters into a compromise with his/her creditors;
- (d) when a motion of no-confidence in the office bearer has been accepted at a meeting of the Congress/ Provincial Conference (whichever is applicable) with a two-thirds majority;
- (h) when he/she is in terms of any law declared as a mentally disordered person;
- (f) when he/she has been convicted of a criminal offence and in respect thereof sentenced to imprisonment without the option of a fine; or
- (g) when a member is dismissed from duty by his/her employer and as a result does not have a constituency that he/she represents.

15.6.2 The term of office of an office bearer **may** terminate if he/she is found guilty of a transgression/ misconduct and a sanction other than termination of membership has been imposed at completion of the disciplinary process; or

15.6.3 The term of office of an office bearer shall terminate in the relevant structure of the union if he/she absents himself or herself without written apologies on 2 or more occasions during his/her term of office.

15.6.4 A decision to terminate the term of office (remove) of an office bearer in terms of clause 15.6.1(a) shall only be taken at a properly constituted meeting of the National Executive Committee or Provincial Executive Committee (whichever is applicable), provided that a two-thirds majority of those present and voting shall be required to take such a decision and only after the office bearer concerned had been afforded an opportunity to address the relevant Committee in person, or in writing, on why his/her term of office should not be terminated.

16 FINANCIAL MATTERS OF THE UNION

16.1 The financial year of the Union shall be 1 January to 31 December of each year.

16.2 The accounts and financial statements of the Union shall be audited by a nationally appointed registered auditor

16.3 The budget of the Union shall be met from-

(a) membership contributions and entry fees;

(b) donations and bequests;

(c) any other income received; and

(d) accumulated funds in whatever form from whatever source; provided that the receipt of any such funds would not constitute a breach of this Constitution. Furthermore, National Council shall by way of resolution issue rules relating to the receipt of funds.

16.4 All funds received on behalf of the Union shall be deposited to the credit of the Union with a registered bank appointed by the National Executive Committee, provided that any surplus funds that are not required for the purpose referred to in clause 16.5, may be invested only with a registered financial institution as defined in section 1 of the Financial Institutions (Investment of Funds Act) 2001, and/or in securities listed on a licensed stock exchange as defined in Stock Exchanges Control Act 1985 (Act 1 of 1985) on such terms and conditions as the National Executive Committee may determine and subject to any applicable law.

16.5 The funds shall be utilised exclusively for the payment of expenses arising from the administration of the affairs of the Union and for the promotion and development of the best interests of the organised teaching profession and the furtherance of the

objectives of the Union. The Union shall not knowingly become a party to, or knowingly permit itself to be used as part of, an impermissible taxation avoidance arrangement as contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act 58 of 1962.

- 16.6 All disbursements to be made from the funds of the Union shall be in terms of a budget which has been approved by the National Executive Committee. All extra-ordinary expenditure shall be recommended by the Finance Committee and approved by the National Executive Committee.
- 16.7 All disbursements shall be made and accounted for in terms of procedures approved by the National Executive Committee.
- 16.8 Funds required for a petty cash account shall –
 - (a) not exceed the limit determined by the Finance Committee;
 - (b) be provided by the drawing of a cheque; and
 - (c) be kept safely in such a manner as the Finance Committee may determine from time to time.
- 16.9 The Executive Director shall cause monthly financial statements reflecting the income, expenditure, assets and liabilities of the Union to be prepared and shall submit these to the Finance Committee who will make a recommendation to the National Executive Committee regarding approval.
- 16.10 Prior to one of the meetings of the National Executive Committee each year, but not later than six months after the end of the financial year, the Executive Director together with the Finance Committee shall cause the annual financial statements of the National Office as well as the annual consolidated financial statements of the Union to be prepared in accordance with accepted accounting practice.
- 16.11 After the National Office annual financial statements and the consolidated annual financial statements of the Union have been submitted for audit to the registered auditor appointed by the Union and then submitted to the National Executive Committee for approval, these statements shall be countersigned by the President and the Executive Director.
- 16.12 No funds or profits of the Union may be distributed to any person and the funds of the Union shall be utilised only to pursue the objectives of the Union. No member may directly or indirectly have any personal or private interest in the Union.
- 16.13 Cheques, payments and other documents such as contracts and leases and other instruments drawn on the accounts of the National Office shall be signed by any two

of the Chairperson of the Finance Committee, President, Executive Director or a member or official appointed by the National Executive Committee.

- 16.14 The Union shall not conduct any business, including normal trading or speculative commercial activities or the purchase of fixed property with the intention of earning income from the rental of such property. The Union may not have a share or other interest in any business, profession or occupation which is carried on by its members.
- 16.15 These requirements shall apply mutatis mutandis to the Financial Matters of each Province of the Union except where and as specifically stipulated otherwise in this Constitution.

17 RULES AND STANDING ORDERS OF THE UNION

The National Congress, National Council, and National Executive Committee shall have the power to issue, revoke and amend from time to time Rules to govern the implementation of this Constitution; and Standing Orders to regulate the conduct of meetings of the Union provided that should any Rules be issued, revoked and amended by the National Executive Committee that decision and the Rules so affected shall be tabled at the next meeting of the National Congress or National Council for ratification.

18 AMENDMENT OF THE CONSTITUTION

- 18.1 Subject to clause 18.4, the Constitution may be amended by way of a two-thirds majority resolution of the National Congress or National Council.
- 18.2 No amendment shall be considered unless at least 60 days prior notice of the proposed amendment has been given to the Executive Director.
- 18.3 Such notice shall be transmitted to all Provinces and their National Congress delegates or National Council councillors at least 45 days prior to the meeting at which it is to be considered provided that the provisions of this Constitution shall apply.
- 18.4 The Constitution may be amended by the National Executive Committee (without a resolution of the National Congress or the National Council) if the Union receives amendment instructions from-
- (a) the Registrar of Labour in compliance of the Labour Relations Act, 1995; or
 - (b) the South African Revenue Service in compliance of the Income Tax Act, 1962, provided that the decision of the National Executive Council shall be taken by way of a two-thirds majority.

- 18.5 Any amendment to this Constitution must be submitted to the Registrar of Labour Relations and to the Commissioner for Inland Revenue within 30 days of its amendment and will take effect only after certification.

19 INTERPRETATION

Any dispute concerning the interpretation of the Constitution shall be resolved by the National Council and failing that, such dispute may be referred to the National Congress. Provided that in the event of any such dispute the minutes of the meetings dealing with the drafting or subsequent amendment of the Constitution shall form part of the terms of reference for the Union.

20 LANGUAGE OF RECORD

The language of record of the Union shall be English.

21. BALLOTS

- 21.1 A ballot on any question shall be taken if the National Executive Committee so decides, and shall also be taken –

- (a) if demanded in writing by not less than 5% of the members of the Union;
- (b) on any proposal to declare or take part in any strike in which event a strike ballot shall be held.

- 21.2 Ballots shall be conducted in one of the following manners:

21.2.1 Physical ballot

- 21.2.1.1 Notice of a ballot shall be given to each member in writing by the Provincial Chief Executive Officers acting on written instructions of the Executive Director, at least three days before the ballot is to be taken.
- 21.2.1.2 An independent scrutineer shall be appointed by the National Executive Committee to supervise any ballot and to ascertain the result thereof.
- 21.2.1.3 Ballots shall be taken at any office of the trade Union or at such other venue as may be specified in the notice referred to in sub-

clause 21.2.1.1 on the date and during the hours specified in the said notice.

- 21.2.1.4 Ballot papers shall be prepared and supplied by officials of the Union appointed for such purposes by the Executive Director. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter.
- 21.2.1.5 A predetermined voters' roll of the members in respect of whom the Union intends to call to strike must be present at the voting station(s). The Provincial Chief Executive Officers shall ensure that the voters roll is available and correct. The members entitled to vote must be in good standing and eligible to vote in terms of the Union constitution.
- 21.2.1.6 Ballot boxes shall be inspected by the scrutineer and sealed by the Executive Director or Provincial Chief Executive Officer or appointed Union representative in their presence prior to the issuing of ballot papers.
- 21.2.1.7 One ballot paper only may be issued to a member who is entitled to vote. The ballot paper shall be issued on demand at the place and during the hours fixed for the taking of the ballot.
- 21.2.1.8 Each voter shall, in the presence of scrutineers appointed by the Executive Director for this specific purpose, be issued with one ballot paper which he/she shall thereupon, in secret, complete, fold and deposit the ballot paper in a ballot box provided for the purpose. Such scrutineers shall provide a report to the scrutineer appointed by the National Executive Committee on the process followed.
- 21.2.1.9 Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- 21.2.1.10 On completion of a ballot, or as soon as possible thereafter, the result thereof shall be ascertained by the scrutineer appointed in the presence of the Executive Director/Provincial Chief Executive Officers and made known to the National Executive Committee/Provincial Executive Committee.
- 21.2.1.11 Ballot papers, including spoilt papers and the voters roll, shall be placed in a container which shall be sealed after they have been

counted and retained by the Provincial Chief Executive Officers for not less than three years.

21.2.2 Electronic ballot

- 21.2.2.1 Notice of a ballot shall be given to each member via e-mail or SMS by the Executive Director or Provincial Chief Executive Officers acting on written instructions of the Executive Director, at least three days before the ballot is to be taken.
- 21.2.2.2 Ballots shall be taken via e-mail or SMS on the date and during the hours specified in the said notice.
- 21.2.2.3 A voters' roll of the members in good standing in respect of whom the Union intends to call a ballot must be prepared by the Executive Director or the Provincial Chief Executive Officers (whichever is applicable), reflecting the e-mail addresses or mobile phone numbers of the members concerned.
- 21.2.2.4 The voters' roll must be available for scrutinization by the CCMA or an independent organisation contracted by the union for this purpose who shall act as scrutineer for the balloting process.
- 21.2.2.5 The question that is the subject of the ballot must be clearly phrased to elicit a simple response of "Yes/No", "Agree/Disagree" or "In favour/Not in favour", whichever is appropriate in the circumstances.
- 21.2.2.6 The union shall contract an external service provider that will be able to ensure that-
 - (a) each member of the union who is eligible to vote on a matter determined for a ballot is assigned a unique ballot number to be utilised when exercising his/her ballot;
 - (b) a unique ballot number can only be used for a single vote. Should it, however, occur that more than one vote is exercised for a unique ballot number, the votes will be regarded as spoilt votes;
 - (c) the union will not be able to identify voters; and
 - (d) the scrutineer will be able to verify the outcome of the ballot
- 21.2.2.7 The CCMA or independent organisation referred to in clause 21.2.2.4 (whichever is applicable) must keep the records of the balloting for three months and thereafter submit it to the Executive Director for record keeping.

21.3 The National Congress, National Council or the National Executive Committee shall be bound to take action according to the decision of a majority of members voting in a ballot unless the constitution of the Union requires a two-thirds majority.

21.4 No member of the Union may be disciplined or have their membership terminated for failure or refusal to participate in a strike if-

- (a) no ballot was held about the strike, or

- (b) a ballot was held but the majority of members who voted did not vote in favour of the strike.

21.5 Notwithstanding anything to the contrary contained in this Constitution, members of the Union shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike.

22 DISSOLUTION/AMALGAMATION OF THE UNION

22.1 The Union may apply to the Labour Court for the Union to be dissolved after such resolution has been passed by a two-thirds majority of all Delegates entitled to attend at a properly constituted Special National Congress of the Union, the purpose of which having been made known beforehand. Such Special National Congress may follow on a National Congress meeting.

22.2 If the Union is dissolved as envisaged in clause 22.1 then the assets of the Union shall be dealt with by a liquidator appointed by the Labour Court in terms of the Labour Relations Act provided that a Board of Trustees consisting of the National Executive Committee of the Union shall, after all fees and liabilities of the Union have been met, including contractual obligations to the members of staff of the Union, transfer the remaining assets to –

- (a) one or more trade Union, company, society, or association with objectives similar to those of the Union, and which is itself exempted from income tax in terms of section 10(d)(iii) of the Income Tax Act;
- (b) a public benefit organisation approved in terms of section 30;
- (c) an institution, board or body which is exempt from tax under 10(1)(cA)(i); or
- (d) the government of the Republic in the national, provincial or local sphere.

22.3 The Union may resolve to amalgamate with one or more education sector or other trade Unions provided a resolution to this effect has been passed by a two-thirds majority of all Delegates entitled to attend a properly constituted Special National Congress of the Union, the purpose of which having been made known beforehand. Such Special National Congress may follow on a National Congress meeting. The assets of the Union shall be transferred to the amalgamated trade Union by the National Executive Committee, acting as a Board of Trustees, in accordance with the provisions of the Labour Relations Act.

23 DELIBERATION AND CONSULTATION

The Union or its committees may, for purposes of deliberation and consultation, invite anybody to attend a meeting. Such persons are not empowered to vote at such a meeting and the conditions regarding financial implications shall apply.

**EXECUTIVE DIRECTOR
(GENERAL SECRETARY)**

ANNEXURE A

NAPTOSA DISCIPLINARY CODE AND PROCEDURE FOR MEMBERS OF STAFF

1. INTRODUCTION

The Disciplinary Code and Procedure is in accordance with the Labour Relations Act, No.66 of 1995. The purpose of this document is to outline the disciplinary code and procedures in more detail and to ensure that NAPTOSA staff understand and adhere to all the guidelines and procedures.

2. DEFINITIONS

- 2.1 **'Appeals Committee'** means a committee of no more than 3 members (of which one will be the chairperson), other than the members of the Presiding Officer's Committee, appointed by the National Executive Committee from its ranks to consider the appeal of a Provincial Chief Executive Officer or the Executive Director;
- 2.2 **'Constitution'** means the Constitution of the National Professional Teachers' Organisation of South Africa;
- 2.3 **'Disciplinary enquiry/hearing'** means a formal process of establishing facts about an alleged transgression / misconduct of an employee or seconded member by investigating the allegation, allowing the employee, or his/her representative, to state their case for the purpose of allowing management to take appropriate action;
- 2.4 **'Discipline'** means action on the part of management, aimed at eradicating employee transgression or misconduct that threatens to disrupt the smooth functioning of the Union;
- 2.5 **'Dismissal'** means the termination of an employee's services, with or without a notice period, following the findings of a disciplinary enquiry.
- 2.6 **'Employee'** means a person who has been employed by the Union in terms of the Staff Administrative Measures (SAM) or any other contract approved by the Appointing Authority (as defined in the SAM);
- 2.7 **'Employee Representative'** means a fellow employee, employed by NAPTOSA, whom the employee being disciplined, wishes to have as his/her representative;
- 2.8 **'Employer'** means the Union as represented in disciplinary proceedings by Management;
- 2.9 **'Final written warning'** means a warning issued where the misconduct is so serious that a written warning would not be adequate in the circumstances or when the same or similar misconduct is committed within six (6) months of the employee concerned having received a written warning for the same or similar misconduct; NB. A final written warning can also be issued even where a written warning was not given before. This will largely depend on the seriousness of the offence;
- 2.10 **'Manager' / 'Management'** means –
 - (a) the President (in consultation with the National Standing Committee) where the Executive Director is concerned;
 - (b) the Executive Director where Provincial Chief Executive Officers or Head Office employees are concerned;
 - (c) the Provincial Chief Executive Officer where an employee of a Provincial Office is concerned,
 - (d) delegates / nominees of the authorities referred to in (a) – (c) above;
- 2.11 **'Misconduct'** means an employee's conduct that is not appropriate in terms of the Code of Conduct of NAPTOSA; a transgression referred to in the 2nd column of Attachment 1; or a transgression that an employee ought to know constitutes misconduct
- 2.12 **'Policies'** means existing policies and new agreements;
- 2.13 **'Presiding Officers' Committee'** means a committee of no more than 3 members (of which one will be the chairperson) appointed by the National Executive Committee from its ranks to chair the disciplinary enquiry of a Provincial Chief Executive Officer or the Executive Director;

- 2.14 **‘Seconded member’** means a person who has been seconded to the Union in terms of any regulation published under the Employment of Educators Act, 1998 (Act 76 of 1998), or any Collective Agreement concluded in the Education Labour Relations Council, or any other collective agreement or relevant legislation. Notwithstanding this definition a seconded member is still subject to the relevant employment act or collective agreements applicable to them;
- 2.15 **‘Suspension’** is a temporary cessation of an employee’s services, with pay, instituted by management on account of an alleged misconduct;
- 2.16 **‘Union’** means the National Professional Teachers’ Organisation of South Africa;
- 2.17 **‘Verbal Warning’** means a private discussion about the employee’s transgression(s) and noting of the warning issued; and
- 2.18 **‘Written Warning’** means a warning issued where the misconduct is so serious that a verbal warning would not be adequate in the circumstances.

3. PURPOSE

- 3.1 To deter and correct improper conduct;
- 3.2 To caution that failure to comply with rules or regulations will be subject to discipline;
- 3.3 To enforce rules and safety practices in order to protect employees, seconded members, employer’s property, business practices and relationships;
- 3.4 To ensure that the responsibilities of the job are carried out;
- 3.5 To support constructive labour relations in the Union.
- 3.6 To foster good interpersonal relationships
- 3.7 To create certainty and uniformity as to the standards and application of discipline.

4. DISCIPLINARY RIGHTS AND RESPONSIBILITIES

4.1 EMPLOYER’S RIGHTS

- 4.1.1 The authority to discipline an employee shall rest with the Management of NAPTOSA.
- 4.1.2 To institute disciplinary action as a consequence of an employee committing one or more of the transgressions listed in column 2 of the Disciplinary Code at Attachment 1, or any other unacceptable conduct that he/she ought to know, constitutes misconduct.
- 4.1.3 To institute precautionary suspensions.
- 4.1.4 To call and cross-examine witnesses during the course of a disciplinary enquiry.
- 4.1.5 To institute criminal and/or civil action where this is appropriate.

4.2 EMPLOYER’S RESPONSIBILITIES

- 4.2.1 To maintain discipline.
- 4.2.2 To take disciplinary action as soon as the employer becomes aware of an employee’s misconduct.
- 4.2.3 To ensure that fairness and consistency are maintained when disciplinary action is taken.
- 4.2.4 To ensure that NAPTOSA’s policies, procedures and rules are made known to all employees and that up-to-date copies thereof are always available to employees.
- 4.2.5 To ensure employees are aware of their rights and responsibilities.
- 4.2.6 To ensure employees are given appropriate training to perform their jobs adequately and that this training is constantly reviewed.

4.3 EMPLOYEES’ RIGHTS

- 4.3.1 The right to timeous notification of the intention to convene a disciplinary enquiry and the grounds for that enquiry, in a form of language that the employee reasonably understands.
- 4.3.2 The right to be represented by a fellow employee in the employ of NAPTOSA.
- 4.3.3 The right to a fair and proper hearing.
- 4.3.4 The right to call and cross-examine witnesses during the course of a disciplinary enquiry.

- 4.3.6 The right to translation if required.
- 4.3.6 The right to appeal.

4.4 EMPLOYEES' RESPONSIBILITIES

- 4.4.1 To familiarize themselves with the Staff Administrative Measures (SAM), policies and procedures of NAPTOSA, including the code of conduct and the possible transgressions, procedures and code.
- 4.4.2 To nominate an employee representative of their choice as per their rights.
- 4.4.3 To participate actively in training with the view to improving performance.
- 4.4.4 To behave responsibly while in NAPTOSA's employment.

5. DISCIPLINARY ACTION

- 5.1 When a manager becomes aware of a disciplinable transgression (see column 2 of the Disciplinary Code at Attachment 1, subject to clause 10.1) by an employee, the alleged transgression must be investigated to determine the seriousness thereof, which in turn will indicate the disciplinary route to be followed.
- 5.2 In assessing the seriousness of the transgression the following must be considered:
 - 5.2.1 The actual or potential impact, or detriment, of the alleged transgression on/to the –
 - (a) work of the Union;
 - (b) image of the Union
 - (c) employee's colleagues; and
 - (d) members of the Union.
 - 5.2.2 The nature of the employee's work and responsibilities.
 - 5.2.3 The circumstances in which the alleged transgression took place.
 - 5.2.4 Whether it was within the control of the employee not to transgress.
- 5.3 Based on the assessment of the transgression, the manager must decide which of the following three (3) disciplinary routes to follow:
 - (a) Corrective counselling.
 - (b) Disciplinary action for less serious transgressions.
 - (c) Disciplinary action for serious transgressions.

6. DISCIPLINARY ACTION FOR LESS SERIOUS TRANSGRESSIONS

In cases where a manager is of the opinion that an employee's transgression requires more serious action than corrective counselling, but is less serious than a transgression that requires a formal disciplinary enquiry, he/she should consider utilizing the corrective / progressive disciplinary procedures indicated below.

In progressive disciplinary meetings, warnings may be applied progressively, but should not be applied mechanistically. In other words, they do not necessarily have to build on one another. Depending on the seriousness of the transgression a written warning or a final written warning may be issued in the first instance.

6.1 VERBAL WARNING

- 6.1.1 The manager to meet with the employee to -
 - (a) convey the inappropriate performance/conduct;
 - (b) confirm the rule of the appropriate behaviour/standard of performance;
 - (c) permit an explanation and consider the employee's input; and
 - (d) issue a verbal warning if the employee's explanation is not acceptable;
- 6.1.2 If a verbal warning is issued the employee must simultaneously be informed that further transgressions may result in more severe disciplinary action.
- 6.1.3 The manager will complete a "Confirmation of Verbal Warning" and request the employee to sign same. The manager will keep the Confirmation for record purposes.

- 6.1.4 Should the employee refuse to sign, the manager must issue the verbal warning in the presence of a witness who will certify that the warning was handed to the employee.
- 6.1.5 A verbal warning will remain valid for 3 months.

6.2 WRITTEN WARNING

- 6.2.1 When a verbal warning(s) has failed to achieve the required improvement or where, based on the nature of the transgression, a heavier sanction than a verbal warning is warranted the manager should consider issuing a written warning.
- 6.2.2 Before a decision is taken to issue a written warning, the manager must call the employee to a meeting to discuss the alleged transgression(s) and allow the employee to respond to the allegation(s). The employee may be represented in such a meeting.
- 6.2.3 If, following the meeting, the manager decides to issue a written warning, the warning should contain the following:
 - (a) Explanation of the misconduct.
 - (b) The rule or standard breached.
 - (c) The actual warning.
 - d) The consequences of continuing or repeating the behaviour.
- 6.2.4 The manager must give a copy of the written warning to the employee who must sign receipt thereof. Should the employee refuse to sign, the manager must hand the written warning to the employee in the presence of a witness who must certify that the warning was handed to the employee.
- 6.2.5 A written warning will be valid for a period of 6 months and be kept in the employee's personnel file for the duration. At the expiry of the 6 months, the written warning must be removed from the employee's personnel file and destroyed.
- 6.2.6 If, during the 6 month validity of the written warning, the employee is subject to disciplinary action on a same or similar transgression, the warning may be taken into account in deciding an appropriate sanction.

6.3 FINAL WRITTEN WARNING

- 6.3.1 When all prior warnings (verbal or written) have failed to achieve the required improvement, or where, based on the nature of the transgression, a heavier sanction than a written warning is warranted the manager should consider issuing a final written warning.
- 6.3.2 Paragraphs 6.2.2 to 6.2.6 apply to final written warnings with the necessary changes required and subject to a period of validity of 12 months.

6.4 OBJECTIONS

An employee shall have the right to express his/her objections, in writing, to the imposition of any of the above-mentioned warnings. The objection must be lodged with the relevant manager and filed together with the relevant warning for the duration of the validity of such warning.

7. DISCIPLINARY ACTION FOR SERIOUS TRANSGRESSIONS (DISCIPLINARY ENQUIRY)

7.1 DECISION ON DISCIPLINARY ENQUIRY

- 7.1.1 In deciding whether or not to institute a disciplinary enquiry the manager should consider whether—
 - (a) the transgression is of such a serious nature that counselling or the issuing of a warning in terms of the less serious procedure (paragraphs 7 and 8) will not suffice;
 - (b) the transgression constitute a material breach of the employment relationship; and
 - (c) the employee repeated a transgression or committed a related transgression during the validity of a warning, especially a final written warning.
- 7.1.2 Once the manager decides that a disciplinary enquiry is required, he / she should further decide whether or not the employee should be placed on precautionary suspension.

7.2 PRECAUTIONARY SUSPENSION

- 7.2.1 The decision to institute a precautionary suspension should be guided by the presence of both the following elements:
- (a) A serious offence must allegedly have been committed by the employee; and
 - (b) The presence of the employee at the workplace might jeopardise any investigation into the alleged misconduct or it might endanger the wellbeing or safety of other employees or property of the Union.
- 7.2.2 Before a decision is taken to place an employee on precautionary suspension, the employee must be given sufficient opportunity to indicate why he/ she should not be suspended.
- 7.2.3 Precautionary suspension is not a judgement and may take the form of-
- (a) suspension on full pay; or
 - (b) transfer to another workplace.
- 7.2.4 Once an employee has been placed on precautionary suspension, the disciplinary enquiry must commence within a month. If not, the employee must return to his /her position.
- 7.2.5 A precautionary suspension will also apply for the duration of the disciplinary enquiry, provided the employee had not returned to his/her position in terms of paragraph 7.2.4.
- 7.2.6 A precautionary suspension may, at any time, be lifted by the manager.

7.3 THE DISCIPLINARY ENQUIRY

- 7.3.1 If the manager decides that a disciplinary enquiry is required, he/she must –
- (a) , as representative of the employer / initiator, present the case to the disciplinary enquiry or appoint another representative (from within or outside the Union) to do so;
 - (b) appoint a Presiding Officer (from within or outside the Union) or the Presiding Officers' Committee [for the remainder of the document the term "Presiding Officer" will also refer to the Committee, whichever is applicable];
 - (c) notify the employee in writing at least 5 working days before the disciplinary enquiry is to take place.
- 7.3.2 The notice of the disciplinary enquiry must –
- (a) provide a description of the allegation(s) against the employee;
 - (b) provide details of the time and venue of the enquiry;
 - (c) confirm the rights of the employee (i.e. the right to representation, to bring and question witnesses, to give testimony through an interpreter (where applicable); and
 - (d) state that if the employee does not attend the enquiry without reasonable or just cause, it will proceed in his/her absence.
- 7.3.3 The employee must be required to acknowledge receipt of the notice of the disciplinary enquiry by appending his/her signature to a copy of the notice. Should the employee refuse to sign the receipt of the notice, the manager must hand the notice to the employee in the presence of a witness who must certify that the notice was handed to the employee.
- 7.3.4 Unless the employee is on precautionary suspension, preparation for the disciplinary enquiry is to be carried out outside of NAPTOSA's normal working hours (i.e. the employee required to maintain normal working hours).
- 7.3.5 The following persons to be present at a disciplinary enquiry:
- (a) Presiding Officer;
 - (b) The representative of the employer (manager) or another person;
 - (c) The employee being charged;
 - (d) The employee's representative (see paragraph 4.3.2);
 - (e) An interpreter (if required);
 - (f) A representative from the Human Resources Committee to advise on policy and procedures (if required); and
 - (g) Any witness that may be called upon by one or both parties.
- 7.3.6 The sequence of events at the disciplinary enquiry will be as follows:
- (a) The Presiding Officer will record the proceedings, welcome everyone, read the notice containing the allegations and request the employee to plead to each of the allegations;

- (b) If the employee pleads guilty to the allegations the matter will proceed to the presentation of mitigating and aggravating circumstances;
- (c) If the employee pleads not guilty to all or some of the allegations, the initiator will lead evidence, through documentation and/or witnesses, to substantiate those allegations;
- (d) The employee or his/her representative will be given an opportunity to question any witnesses;
- (e) The employee or his/her representative will be given an opportunity to present his/her case and the representative of the employer will have an opportunity to question the employee's witnesses;
- (f) The Presiding Officer may, if required, request both parties to submit written closing arguments;
- (g) After having heard the cases of both the employer and the employee, the Presiding Officer must pronounce to the parties whether or not he/she finds the employee guilty of the transgression(s) that the employee had pleaded not guilty to and the reasons for the finding.
- (h) If the Presiding Officer pronounces a finding of guilty, he /she must allow the presentation of mitigating and aggravating circumstances by the employee (or representative) and the representative of the employer respectively;
- (i) Having considered the mitigating and aggravating circumstances, the Presiding Officer must, within five working days of the conclusion of the disciplinary enquiry pronounce a sanction(s) (see paragraph 7.4) and inform the parties accordingly;
- (j) The sanction will be implemented by the employer;
- (k) In conveying the sanction to the employee the Presiding Officer will inform the employee of his /her right to appeal the finding and/or the sanction imposed within 5 working days (see paragraph 7.5).

7.4 SANCTIONS

- 7.4.1 The Presiding Officer may, depending on the seriousness of the transgression(s), impose any of the following sanctions:
 - (a) Written warning valid for 6 months.
 - (b) Final written warning valid for 12 months.
 - (c) Suspension without pay (gross salary), for no longer than 3 months.
 - (d) Demotion to a post on the next lower level.
 - (e) A fine of not more than 25% of the employee's gross monthly salary or the value of the item lost or wilfully damaged.
 - (f) A combination of any of the above.
 - (g) Dismissal.
- 7.4.2 The sanctions of suspension without pay or demotion require the agreement of the employee and should generally be applied (and "offered" to the employee) as alternatives to dismissal. If an agreement cannot be obtained, dismissal will follow.
- 7.4.3 Before the sanction of demotion is imposed, the Presiding Officer must determine that a vacant post at the next lower level is available.
- 7.4.4 When the sanction of demotion is imposed, it will be to the starting notch of the next lower level.
- 7.4.5 When the sanction of dismissal is applied, the employee will be granted notice pay in accordance with the periods as defined in the Basic Conditions of Employment Act relating to termination of service. However, it may be decided by the employer to make payment in lieu of notice in which case the employee shall vacate the offices of the Union immediately.

7.5 APPEAL

- 7.5.1 The appeal authority will be the following:
 - (a) In the case of the Executive Director or a Provincial Chief Executive Officer, the Appeals Committee.

- (b) In the case of Head Office staff, the President.
 - (c) In the case of staff of Provincial offices, the Executive Director.
- 7.5.2 An employee may submit an appeal in writing to the relevant appeal authority within five (5) working days of the sanction being communicated to him/her. This submission should be accompanied by all relevant documentation i.e., letter of appeal accompanied by any other relevant documentation (not new evidence) that supports the application for an appeal.
- 7.5.3 The appeal authority must consider the grounds for appeal and make a pronouncement to –
 - (a) uphold the appeal;
 - (b) dismiss the appeal; or
 - (c) impose a different sanction.
- 7.5.4 The decision of the appeal authority is final and binding. Should the employee be dissatisfied with the outcome of the appeal, he/she may have recourse to other mechanisms contained in the Labour Relations Act, (1995).
- 7.5.5 No sanction may be implemented if an employee appeals. The sanction will only apply from the date that the appeal authority has decided the appeal.

8. DISCIPLINARY CODE

- 8.1 Column 2 of the Code (see Attachment 1) tabulates the disciplinable offences. Staff of NAPTOSA and seconded employees must acquaint themselves with the contents thereof. The offences listed are not exhaustive and NAPTOSA is not prevented from taking disciplinary action for offences not mentioned in this list.
- 8.2 The disciplinary actions detailed in the Code are intended to serve as guidelines to management in implementing the disciplinary policy and indicate which actions may be taken in which circumstances. This, however, does not prevent NAPTOSA taking different disciplinary action from that indicated in the guidelines. Other relevant factors to be taken into account in determining the appropriate disciplinary action will include the seriousness of the misconduct, length of service, previous offences, period since last offence and any relevant mitigating or aggravating circumstances.

ATTACHMENT 1

Category	Nature of offence	First Offence	Second Offence	Third Offence	Fourth Offence
Time Keeping Offence	1. Late for work or leaving work early without permission or an acceptable and good reason 2. Unwarranted absence from place of work without good reason / permission 3. Desertion: Staying away from work for a period of more than 14 consecutive days without permission, or without good reason or without notifying a senior manager during the period of absence. A medical certificate must be produced in accordance with NAPTOSA's policies and procedures if the absence is for medical reasons.	Verbal Warning Final Written Warning Dismissal	Written Warning Dismissal	Final Written Warning	Dismissal
Work output offences	4. Sleeping on duty. 5. Refusal to work. 6. Refusal to obey a lawful and reasonable work instruction. 7. Poor quality of work/or not working to required standards. 8. Dereliction of duty.	Verbal warning. Final written warning Final written warning. Verbal warning. Final written warning.	Written warning Dismissal Dismissal Written warning Dismissal	Final Written warning Final Written Warning	Dismissal Dismissal
Quality of work offences	9. Poor maintenance of vehicle or equipment for which employee is responsible. 10. Wastage of material. 11. Damage to Union's property. 12. Injury to another through negligence or horseplay.	Verbal warning Verbal warning Written warning Final written warning	Written warning Written warning Final written warning Dismissal	Final written warning Final written warning	Dismissal Dismissal

Social Offences	13. Under the influence of alcohol or intoxicating drugs at work.	Final warning	written	Dismissal		
	14. Unauthorised consumption of alcohol and/or administration of drugs for non-medicinal purposes on premises during normal working hours.	Final warning	written	Dismissal		
	15. Being in unauthorized possession of liquor or drugs on NAPTOSA premises.	Final warning	written	Dismissal		
	16. Assault	Dismissal				
	17. Threat of assault.	Final warning	written	Dismissal		
	18. Unauthorised possession of dangerous items or weapons.	Final warning	written	Dismissal		
	19. Intimidation or incitement to violence.	Dismissal				
	20. Committing unsanitary acts, including acts related to health standards	Final warning	written	Dismissal		
	21. Sexual harassment of an employee or member of the Union.	Final warning	written	Dismissal		
	22. Hate speech and/or public expressions of racial prejudice to an employee/seconded member or member.	Final warning	written	Dismissal		

Attitudinal offences	23. Insolence - rudeness, disrespectful or offensive behaviour	Written warning	Final written warning	Dismissal	
	24. Insubordination - refusal, without good reason, to obey a lawful instruction issued by the employer- challenging the employer's authority.	Written warning	Final written warning	Dismissal	
	25. Failure to carry out a lawful and reasonable instruction.	Written warning	Final written warning	Dismissal	
	26. Failure to observe security and safety regulations.	Written warning	Final written warning	Dismissal	
	27. Use of abusive and/or derogatory and/or offensive language or insolence	Final written warning	Dismissal		
	28. Gross insubordination and/or serious disrespect.	Dismissal			
	29. Gross negligence.	Dismissal			
Other offences	30. Wilful damage to material, equipment, possessions or property of NAPTOSA	Dismissal			
	31. Theft/Unauthorised possession of NAPTOSA property or employee property.	Dismissal			
	32. Driving employer vehicle or operating machine without authority.	Final Written Warning	Dismissal		
	33. Divulging confidential information.	Dismissal			
	34. Fraud/Deliberately supplying incorrect or falsified information.	Dismissal			
	35. Gross dishonesty	Dismissal			
	36. Making use of his or her position at NAPTOSA to promote or prejudice the interest of any political party including the wearing of badges, stickers, politically sloganed clothing, etc. and/or the display and distribution or political posters, literature, etc. on the Union's premises or time.	Written warning	Final written warning	Dismissal	

	37. Attempting to improperly secure intervention from persons in position of leadership in relation to his or her personal position and conditions of service unless this occurs in an endeavour to obtain redress of any grievance.	Dismissal			
	38. Without the permission of the Executive Director/Provincial Chief Executive Officer, demanding any commission or fee or other reward for the carrying out or failure to carry out his or her duties or failing to report an offer of such commission, fee or reward to the Executive Officer.	Dismissal			
	39. Making a false or incorrect statement, knowing it to be false or incorrect, with a view to obtaining a privilege or advantage in relation to his/her official position or duties or causing prejudice or injury to NAPTOSA or an employee of NAPTOSA.	Dismissal			
	40. Conducting him/herself in a disgraceful, improper or unbecoming manner while on duty.	Final written warning	Dismissal		
	41. Any other reason recognised in law as being sufficient grounds for dismissal.	Dismissal			
	42. Guilty in a competent court of law of an offence which might prejudice the good name of NAPTOSA and its members.	Dismissal			
	43. Committing an act which undermines the financial management and internal control system of the organisation.	Final written warning	Dismissal		
	45. Making or permitting an irregular fruitless or wasteful expenditure in terms of the Financial Policy of the Union.	Final written warning	Dismissal		

ANNEXURE B

NAPTOSA APPOINTMENT PROCEDURES FOR MEMBERS OF STAFF

1. Types of Appointment

Any post approved on the Union's organogram may be filled in either a permanent or temporary capacity at the discretion of the Appointing Authority.

2. Requirements for appointment

2.1 Professional staff

- 2.1.1 Persons appointed as professional staff of the Union shall have a suitable teaching or equivalent qualification of at least REQV 13.
- 2.1.2 Staff shall have suitable experience at a level appropriate to the position to which they would be appointed-
- 2.1.3 The Appointing Authority may prescribe any suitable, additional requirements for a specific post.

2.2 Administrative staff

- 2.2.1 Persons appointed in an administrative position shall have a minimum qualification at level 4 on the NQF, provided that members of staff appointed to posts of general officer shall be able to demonstrate only functional literacy. In addition members of staff may be required to have whatever additional qualifications are deemed necessary for the specific description of the post to which they are appointed.
- 2.2.2 Appropriate work experience will be a requirement for appointment.
- 2.2.3 The Appointing Authority may prescribe any suitable, additional requirements for a specific post.

3. Procedure for appointment of permanent staff

- 3.1 The functions involved in the permanent appointment of members of staff are performed by the following functionaries:
 - (a) The President, on behalf of the NEC, in respect of the post of Executive Director;
 - (b) The Executive Director, on behalf of the NEC, in respect of a post of Provincial Chief Executive Officer;
 - (c) The Executive Director in respect of all Head Office posts; and
 - (d) The Provincial Chief Executive Officer in respect of all Provincial Office posts.
- 3.2 The functionaries referred to in clause 3.1 must-
 - (a) ensure that updated job descriptions for posts to be filled, exist or are developed;

- (b) obtain approval from the relevant structures referred to in clause 3.3, to fill a vacant post, subject to the approved organogram;
- (c) prepare an advertisement for the post, which shall include the key performance areas/tasks as well as the requirements, qualifications and conditions of service and date of appointment;
- (d) ensure the publishing of the advertisement internally for members of staff as well as in an open advertisement which may include, but is not limited to, a newsletter or similar publication of the Union and/or local and/or national media in terms of a general national /provincial policy, whichever is applicable. An internal advertisement shall be sent to all offices of the Union. Internal advertisements and open advertisements shall be published at the same time with the same time frames;
- (e) require applications to be submitted by post, fax, e-mail or personal delivery and addressed to him/herself, each application to be acknowledged;
- (f) constitute an Interview Committee as prescribed in clause 3.4;
- (g) after sifting the applications, submit all qualifying applications, as well as the rejected applications, to the Interview Committee who shall consider the applications and select a short list of the applicants to be interviewed, provided that persons already employed by the Union who are applying for equivalent posts shall be short-listed. The policies of the Union regarding the appointment of members of staff, including its equity plan, shall be taken into consideration when short-listing applicants. The Interview Committee may recommend to the relevant structure referred to in clause 10.3.3 that the post be re-advertised;
- (h) arrange for interviews to be held and shall invite each person on the short list to attend. Each short-listed applicant shall be provided with an information sheet, prior to the interview, containing an extract of the job description;
- (i) arrange for applicants to undergo a practical assessment test where required by the Interview Committee;
- (j) arrange for a second set of interviews of applicants identified for this purpose by the Interview Committee;
- (k) submit the recommendation of the Interview Committee, which should be a maximum of three applicants in order of preference, to the relevant structures referred to in clause 10.3.3 for ratification (which may be obtained by fax, e-mail or telephone). The relevant structure would normally approve the first recommendation of the Interview Committee, failing which the Interview Committee shall be consulted. Where the NSC/ PSC is the ratifying structure it shall report its decision to the NEC/PEC, whichever is applicable, at the next meeting of the latter;
- (l) after obtaining ratification from the relevant structure referred to in subparagraph (k) , inform the successful applicant and offer the post to this person. If the first applicant does not accept the post then the next applicant on the list, as approved by the relevant structure, may be offered the post or the post may be re-advertised;
- (m) prepare a letter of appointment (as provided for in the SAM), signed by him/her and the President/Chairperson of the province, whichever is applicable, and ensure that the successful applicant receives the letter;
- (n) prepare a contract of employment for signature by him/herself and the successful applicant.

- 3.3 The following structures must grant approval for the filling of permanent posts and ratify recommendations of the Interview Committee:
- (a) The National Executive Committee in respect of the post of Executive Director;
 - (b) The National Executive Committee, on recommendation of the Provincial Executive Committee, in respect of a post of Provincial Chief Executive Officer;
 - (c) The National Standing Committee in respect of Head Office posts;
 - (d) The Provincial Standing Committee in respect of all Provincial Office posts (excluding the post of Provincial Chief Executive Officer);
- 3.4 Interview Committees for the filling of permanent posts are to be comprised as follows:
- (a) Post of Executive Director
 - The President
 - The Deputy President
 - The Vice-President
 - The outgoing Executive Director (whose role shall be to advise the Committee as a resource person)
 - Two other members of the National Executive Committee, as selected by the National Executive Committee
 - One of the Provincial Chief Executive Officers as selected by the National Executive Committee;provided at least two members of the Interview Committee shall be women.
 - (b) Posts of Provincial Chief Executive Officer
 - The President (who would normally serve as Chairperson of the Committee)
 - The Executive Director
 - The Chairperson of the Province
 - The Vice-Chairperson of the Province (responsible for Provincial Human Resource Matters)
 - The outgoing Provincial Chief Executive Officer (whose role shall be to advise the Committee as a resource person)
 - Three other members selected by the Provincial Executive Committee of whom at least one must be a woman.
 - (c) Posts in Head Office
 - Not less than 3, but not more than 5 persons, in terms of a general policy determined by the National Executive Committee comprising leaders and members
 - For professional posts and posts of Senior Administrative Officer, the Vice-President (responsible for Human Resource Matters) and the Executive Director, or their delegates, shall be members of the committee.
 - (d) Posts in Provincial Offices
 - Not less than 3, but not more than 5 persons, in terms of a general policy determined by the Provincial Executive Committee comprising leaders and members

- For professional posts and posts of Senior Administrative Officer, the Provincial Chief Executive Officers, or their delegates, shall be members of the committee.

3.5 If a member of an Interview Committee is an applicant for a post to be considered by that Interview Committee, participation in the Committee is automatically prohibited. Should this occur the relevant structure referred to in clause 10.3.3. shall replace the person(s) so prohibited.

4. Contract of employment

- 4.1 The Appointing Authority must approve the terms of the conditions of employment.
- 4.2 The Executive Director/Provincial Chief Executive Officer shall prepare the contract of employment of a member of staff of the head office and the provincial office, respectively, for signature. In the case of the Executive Director the contract shall be prepared by the President and in the case of a Provincial Chief Executive Officer the contract shall be prepared by the Executive Director.

5. Probation period

- 5.1 All new appointments and promotion appointments of existing members of staff shall be subject to a probation period of not less than 6 months and not greater than one year.
- 5.2 The Appointing Authority shall determine the period of probation.
- 5.3 The period of probation shall be mentioned in the letter of appointment and specified in the contract.
- 5.4 The probation period may be extended for a period of no more than 6 months and may not be further extended.
- 5.5 During the probation period the Appointing Authority shall ensure that the appointee or promoted member of staff is evaluated and, that where necessary, training and support are provided.
- 5.6 Termination of service during or at the conclusion of the probation period shall be in terms of the Labour Relations Act. A member of staff whose employment is terminated during or at the end of probation period shall have the right to appeal to the Appointing Authority whose decision shall be final.
- 5.7 At the end of the period of probation an appointee or promoted member of staff shall receive a letter confirming the appointment. The letter of confirmation shall be signed by the Executive Director or the Provincial Chief Executive Officer. In the case of the Executive Director the letter will be signed by the President.
- 5.8 In the case of the Executive Director/Provincial Chief Executive Officer the letter shall be signed by the President/Chairperson of the province.

6. Appointment of temporary staff

The procedures provided for in clause 3 in respect of the filling of Head Office and Provincial Office posts (excluding the Executive Director/ Provincial Chief Executive Officer) shall apply *mutatis mutandis* for temporary appointments (fixed term contracts).