



# employment & labour

Department:  
Employment and Labour  
**REPUBLIC OF SOUTH AFRICA**

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Case No: 84/2022

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Dear Sir/Madam

## LABOUR RELATIONS ACT, 1995: REPLACEMENT OF CONSTITUTION

The trade union's application to replace its constitution received on **10 May 2022** has reference.

Please be advised that your application to replace the constitution has been approved with effect from 24 May 2022.

Attached herewith is the copy of the Resolution certifying the Replacement Constitution.

Yours faithfully

**DEPUTY REGISTRAR OF LABOUR RELATIONS**

DATE: 24 May 2022

## ANNEXURE A

### RESOLUTION AND CERTIFICATE

Herewith we, Dr LH Swanepoel, in my capacity as President of the SAOU, and JC Kloppe, in my capacity as Chief Executive Officer, declare as follows:

- This is to certify that all the provisions as set out in section 28 of the SAOU Constitution relating to the adoption of the Constitution have been complied with. All these provisions are set out in section 28 of the SAOU Constitution which reads as follows: *"Any of the provisions of this constitution may be revoked or amended by resolution of the National Congress of the Union or an addition be made in any fashion, and it may also be amended by the National Executive Council in urgent cases as set out in paragraph 10.6.5"*.
- This capacity of the National Executive Council stems from subsection 10.6.5 of the SAOU Constitution. It determines that it shall have the capacity, *"to consider, decide on, and present to the Registrar of Trade Unions, urgent or necessary amendments to the Constitution of the Union, and cause same to be ratified at the first National Congress thereafter."*
- This is also to certify that during the properly constituted National Executive Council meeting of the SAOU, held on 10 March 2022, it was formally resolved to amend the Union's Constitution in accordance with the statutory requirements of the Registrar of Trade Unions and the Constitution of the Union.
- Furthermore, we certify that the amendment hereto attached is the amendment which was submitted to the National Executive Council and which was formally considered and approved to be amended.

LH SWANEPOEL  
PRESIDENT

DATE

15/03/2022

I HEREBY CERTIFY IN TERMS OF SECTION 101  
(3) (a) OF THE ACT THAT THE AMENDMENT TO /  
REPLACEMENT OF THE CONSTITUTION HAS  
BEEN REGISTERED ON:-

DATE: 24 May 2022 J C KLOPPER

CHIEF EXECUTIVE OFFICER

De REGISTRAR OF LABOUR RELATIONS

DATE

15/03/2022



# SAOU

# CONSTITUTION

SUID-AFRIKAANSE ONDERWYSERSUNIE  
(TRANSLATED AS SOUTH AFRICAN TEACHERS' UNION )

Two handwritten signatures in black ink, one on the left and one on the right, positioned above the page number.

## SAOU CONSTITUTION

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

1. NAME .....	3
2. DEFINITION OF TERMS .....	3
3. PRINCIPLES AND OBJECTIVES .....	4
4. STATUS OF THE UNION .....	6
5. MEMBERSHIP .....	7
6. DISCIPLINE .....	7
7. TERMINATION OF MEMBERSHIP .....	7
8. MEMBERSHIP DUES .....	8
9. NATIONAL CONGRESS .....	8
10. NATIONAL EXECUTIVE COUNCIL .....	11
11. ELECTION OF OFFICE-BEARERS .....	14
12. NATIONAL STANDING COMMITTEE .....	15
13. NATIONAL FINANCIAL ADVISORY COMMITTEE .....	16
14. NATIONAL OFFICE-BEARERS .....	16
15. OFFICIALS AT NATIONAL LEVEL .....	17
16. PROVINCIAL GOVERNANCE .....	18
17. CIRCUITS .....	18
18. PROVINCIAL EXECUTIVE COUNCIL .....	19
19. PROVINCIAL STANDING COMMITTEE .....	20
20. PROVINCIAL OFFICE-BEARERS : CHAIRPERSON AND DEPUTY CHAIRPERSON .....	20
21. PROVINCIAL SECRETARY .....	21
22. UNION REPRESENTATIVES .....	21
23. REMOVAL FROM OFFICE OR DISCHARGE .....	21
24. MEETINGS .....	23
25. DECISIONS OF THE UNION AND VOTING BY BALLOT .....	23
26. FINANCE .....	26
27. REPRESENTATION IN BARGAINING AND STATUTORY COUNCILS .....	27
28. AMENDMENT OF THE CONSTITUTION .....	28
29. WINDING-UP .....	28

2



**SUID-AFRIKAANSE ONDERWYSERSUNIE**  
**(TRANSLATED AS THE SOUTH AFRICAN TEACHERS' UNION )**  
**CONSTITUTION**

**1. NAME**

The name of the Union shall be DIE SUID-AFRIKAANSE ONDERWYSERSUNIE (SAOU) (translated as THE SOUTH AFRICAN TEACHERS' UNION )

The Head Office of the Union shall be at:  
SAEF Building  
278 Serene Street  
Garsfontein  
PRETORIA

**2. DEFINITION OF TERMS**

**2.1. Labour Relations Act, 1995**

Any term which is used in this Constitution and which is defined in the Labour Relations Act, 1995 (Act 66 of 1995) shall bear the same meaning as in the Act.

**2.2. Education Sector Employee**

2.2.1. Educators on official post establishments who have been appointed in terms of the Employment of Educators Act, Act 76 of 1998.

2.2.2. Educators appointed by School Governing Bodies (or similar bodies);

2.2.3. Public Service appointees who work in the education sector;

2.2.4. Any other persons who are entitled to register with the South African Council for Educators; and

2.2.5. Any other category of members as determined by the National Congress.

**2.3. Province**

Means the various provinces in the RSA as geographically defined from time to time, and each reference to a province is a reference to the applicable Province.

**2.4. Circuit**

Provinces are geographically divided into circuits. The number of circuits in a province is determined by the number of members in the province.

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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### **2.5. Times**

The calculation of any period referred to in this Constitution includes the first day of the said period and excludes the last day of such period.

### **2.6. Education Practice**

Means professional instruction or education management activities in any education institution including a school, college or institution for higher education by a professionally qualified person who has been appointed to the instructional or management establishment of such education institution.

### **2.7. Office-Bearers**

Means members in good standing – duly elected to the positions described in the constitution of the Union who are not Officials.

### **2.8. Officials**

Means persons employed as the secretary, assistant secretary or organiser of the Union, or in any other prescribed capacity, whether or not that person is employed in a full-time capacity.

### **2.9. Employees**

Means persons appointed as such in terms of the Labour Relations Act, 66 of 1995.

### **2.10. Workplace Representatives**

Also includes School representatives and SAOU representatives.

## **3. PRINCIPLES AND OBJECTIVES**

### **3.1. Principles**

The Union places on record the principles that

- 3.1.1. A high level of professionalism for all educators should be striven after;
- 3.1.2. The improvement of all aspects of the working environment in the education sector should be striven after;
- 3.1.3. Education is best advanced in the mother tongue of the learner; and that
- 3.1.4. Education of a high quality is the inalienable right of every learner within an education system which is characterised by equality, non-racism and non-discrimination.

### **3.2. Objectives of the Union**

- 3.2.1. The Union endorses the Constitution of the Republic of South Africa and the principles of the Bill of Fundamental Rights.

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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- 3.2.2. To establish a politically non-aligned and independent Union which will promote and protect the collective interests of its members at all levels within any existing or future labour relations dispensation.
- 3.2.3. Subject to Law to co-operate with any legitimate and democratically-elected Government based on the principles of freedom and equality and respect for fundamental human rights.
- 3.2.4. To form alliances and to establish national and international liaison with other organisations and Unions which share the values, principles and objectives of the Union.
- 3.2.5. To regulate relationships between employees and employers, including any employers' organisation.
- 3.2.6. To promote the interests of members.
- 3.2.7. To plan and to organise the administration and lawful activities of the Union.
- 3.2.8. To affiliate with and to participate in the activities of any international workers' organisation or the International Labour Organisation.
- 3.2.9. To promote, support, or resist any proposed legislative or other measures which affect the interests of members.
- 3.2.10. To employ all lawful methods to persuade employees in the education sector to become members.
- 3.2.11. To furnish administrative and dispute resolution services – and in its discretion, to an extent that it is feasible, quasi-judicial support to members in the employment context.
- 3.2.12. To establish and to administer funds to the advantage of the members of the Union and their dependants.
- 3.2.13. To support and partake in the structures of the Education Labour Relations Council or any similar structure, and to encourage the resolution of disputes between members and employers or employers' organisations by means of conciliation, mediation or arbitration.
- 3.2.14. To strengthen educators in the discharge of their professional duties and to assist them to guide learners and to prepare them to be responsible citizens in a democratic State.
- 3.2.15. To advance the cause of mother tongue instruction in single-, dual and parallel-medium schools and to promote the cause of other public and independent schools.
- 3.2.16. To establish a service which will, where reasonably possible promote and protect the interests and rights of the members of the Union, to an extent and in a manner determined by the Union.

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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- 3.2.17. To attempt to counteract any form of unfair discrimination in education which is based on the grounds of race, gender, ethnicity, political and other convictions.
- 3.2.18. To take note of the educational needs of every learner and to strive to promote these.
- 3.2.19. To strive for the establishment and maintenance of an effective compulsory education system.
- 3.2.20. To ensure that the interests of learners are not unreasonable prejudiced by the actions of employees rendering a service in the education sector, subject to the Union's commitment to the fundamental labour rights of teachers.
- 3.2.21. To make a contribution to the accountable development of education legislation and education policy.
- 3.2.22. To establish a system of effective consultation and advisory structures for negotiation and bargaining mechanisms in the interests of the organised teaching profession on the one hand, but on the other specifically in the interest of dealing with the rights and interests of the members of the Union.
- 3.2.23. To co-operate with the establishment and maintenance of a registration system for all professional educators and the establishment of a professional code with which all educators are obliged to comply.
- 3.2.24. To co-operate with parents and communities in the interest of quality education.
- 3.2.25. To promote effective provincial and national education structures.
- 3.2.26. To procure and collate information and to distribute relevant information to interested parties.
- 3.2.27. To promote the professional growth of the members of the Union and other employees by means of seminars, conferences, congresses and debate.
- 3.2.28. To do everything within the power of the Union to accomplish the above objectives and to serve the general welfare and interests of the members of the Union in particular and of the teaching profession in general.
- 3.2.29. To establish methods and practical protocols in order to execute any other function which in terms of this Constitution is part of the operational terrain of the Union.

## **4. STATUS OF THE UNION**

The Union is a juristic person with continuous succession and capacity to act in the same way as a natural person who has reached majority and who can in his own name issue plaint and defend, and is a voluntary association not for gain.



**5. MEMBERSHIP**

- 5.1. Any education sector employee in the Republic of South Africa who endorses this Constitution may be considered for membership of the Union.
- 5.2. Applications for admission or re-admission as member of the shall be furnished to the union in a format as approved by the National Executive Council from time to time.
- 5.3. The Union will keep the full membership and personal details of the member, including name, surname, identity number, membership number and place of work.
- 5.4. An applicant whose application for membership is refused shall be furnished with reasons for such refusal.
- 5.5. Should an application for membership be rejected, the applicant concerned shall have the right to make a written appeal to the next meeting thereafter of the National Standing Committee.
- 5.6. A member who has resigned from the Union or been removed from its membership roll may be re-admitted as a member on such conditions as are determined by the National Congress.

**6. DISCIPLINE**

- 6.1. A member may be suspended or expelled by the National Standing Committee if he or she violates any of the provisions of this Constitution or acts in a manner prejudicial to the interests of the Union.
- 6.2. If it is alleged that a member violates any of the provisions of this Constitution or acts in a manner prejudicial to the interests of the Union as contemplated in subsection 6.1, the relevant structure shall institute disciplinary proceedings in accordance of the Disciplinary Code and Procedures for SAOU members, on the understanding that there shall be a right of appeal, as authorised by the National Executive Council. This Code is an Annexure to this Constitution.
- 6.3. Any revision of the Disciplinary Code and Procedures for SAOU Members must be ratified by the National Executive Council.

**7. TERMINATION OF MEMBERSHIP**

- 7.1. Any member who wishes to resign shall furnish three months' notice in writing. Such resignation must be furnished to the Chief Executive Officer or the applicable Provincial Secretary.
- 7.2. Unless the written resignation of a member reaches the Chief Executive Officer or applicable Provincial Secretary prior to 31 December of a given year, the member shall be accountable for membership dues for the ensuing three months, subject to the proviso that the liability for membership dues of a member in the service of a recognised education sector employer in the province shall terminate automatically if he or she leaves the service of the employer concerned and immediately informs the Union accordingly. A

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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further proviso shall be that such member shall automatically be responsible for the payment of membership dues should he or she once again enter the service of a recognised employer, unless he or she has informed the Union in writing of the intention not to resume his or her membership.

- 7.3. A member whose membership dues are more than three months in arrears shall automatically cease to be a member of the Union. Such person is however liable for the payment of all monies due to the Union as at the date on which he or she ceased to be a member of the Union.

### **8. MEMBERSHIP DUES**

- 8.1. Annual membership dues as from time to time determined by decision of the National Executive Council of the Union will not exceed 1 % of the first salary notch of a qualified post level 1 educator, are payable by each member of the Union. The said membership dues shall be paid monthly in advance to the Chief Executive Officer or such other person as may be empowered by the National Standing Committee to receive same.
- 8.2. In addition to membership dues any member shall in the same manner be liable for the payment of such other monies as may be prescribed.
- 8.3. With regard to any specific month in which a member in the employ of a recognised employer receives no salary such member shall be exempt from the payment of the abovementioned membership dues.

### **9. NATIONAL CONGRESS**

- 9.1. Status of the National Congress

The highest controlling body of the Union shall be the National Congress.

- 9.2. Activities of the National Congress

The activities of the Congress are primarily -

- 9.2.1. the consideration of the reports of the President, the Chief Executive Officer and the Accountable Authority, audited financial statements and other special reports;
- 9.2.2. the formulation of policy;
- 9.2.3. the consideration and acceptance of amendments, and presentation to the Registrar of Trade Unions, of alterations to the constitution of the Union;
- 9.2.4. the discussion of matters as per agenda.
- 9.3. Provisions with regard to the convening of the National Congress and of a Special National Congress

- 9.3.1. **National Congress**

- (a) The National Congress shall be convened on one occasion triennially, commencing in 2008.
- (b) The National Congress shall be convened during a month as determined by the National Executive Council, and its geographic locality may rotate between the provinces.
- (c) Notice of the convening of the National Congress and the date thereof shall be furnished by the Chief Executive Officer to the Provinces at least two months before the Congress is to convene.
- (d) Notices of motion by a Province shall be furnished to the Chief Executive Officer so as to reach his or her office at least six weeks prior to the National Congress.
- (e) Copies of the notices of motion and the Agenda for the National Congress shall be distributed to the National Executive Council by the Chief Executive Officer at least fourteen days prior to the National Congress.

**9.3.2. Special National Congress**

- (a) A Special National Congress shall be convened by the President whenever the National Executive Council requests that he do so, or whenever at least three Provinces or 15% of the members request this in writing.
- (b) A request by the Provinces for a Special National Congress shall be despatched to the Chief Executive Officer at the Executive Centre and shall be accompanied by an exposition providing the reasons for such request.
- (c) On receipt of the request the Chief Executive Officer shall despatch same to the President.
- (d) Should reasons of urgency be advanced in the notice the President may on seven days' notice authorise the convening of a Special National Congress and indicate its geographical locality.
- (e) The Special National Congress shall take place within fourteen days of notice of the same having been given.
- (f) The Agenda of a Special National Congress shall be determined in consultation with the Chief Executive Officer and shall be a closed agenda.
- (g) Delegates to a Special National Congress are deputed as for the National Congress and the same vote weights as for the National Congress shall apply.

**9.4. Chairmanship and voting procedure during a National Congress and a Special National Congress**

**9.4.1. Chairmanship**

The President or in his or her absence the Deputy President or the Vice-President or in the absence of the latter a person appointed by the National Executive Council shall lead the proceedings at a National Congress or a Special National Congress.

**9.4.2. Voting**

- (a) Voting shall take place by show of hands unless the National Congress or the Special National Congress decides otherwise.
- (b) The President or other person chairing the meeting shall have a deliberative vote only on viewpoints or issues. Should a voting deadlock arise on a matter affecting a person, the matter shall be decided by lot.
- (c) Decisions of the National Congress or the Special National Congress shall be taken and the acceptance thereof or not shall be determined by means of the vote weights as determined in paragraph 9.5.2 hereunder.

**9.5. Composition, vote weights and quorum**

**9.5.1. Composition**

The National Congress and a Special National Congress shall be constituted as follows:

- (a) The members of the National Executive Council; and
- (b) All members of the Provincial Executive Councils who are not already members of the National Executive Council.
- (c) Any paid up member of the Union, in good standing, may attend, subject to arrangements made by the National Executive Council.

**9.5.2. Vote weights**

The following prescripts shall apply:

- (a) The vote weight of each Province with a view to participation in the activities of the National Congress, a Special National Congress and the National Executive Council shall be determined annually, and only formally accredited members should be entitled to vote.
- (b) The vote weight shall be determined before the first meeting of the National Executive Council for the applicable year is held.

- (c) The audited membership in each Province at the end of December of the preceding year shall be used as the basis for the determination of the number of votes allocated to each Province.
- (d) The vote weight assigned to a Province is applicable only in the National Congress, a Special National Congress and the National Executive Council.

**9.5.3. Quorum requirements for National Congress and Special National Congress**

- (a) The minimum number of persons present at a National Congress or a Special National Congress shall be 50%+1 of the total vote weight which has been assigned to the provinces.
- (b) At a National Congress and a Special National Congress those present from a Province shall cast the number of votes which has been assigned to the Province concerned.
- (c) Should the persons present not constitute at least the number required in paragraph 9.5.2, the starting time for the meeting shall be extended for 30 minutes.
- (d) After 30 minutes the persons present shall be deemed to constitute the requisite quorum and shall vote pro rata in accordance with their vote weights as determined in paragraph 9.5.2, provided that the persons present represent at least 50 % of the provinces.

**10. NATIONAL EXECUTIVE COUNCIL**

- 10.1. The management of the affairs of the Union between the National Congress and any Special National Congress shall be vested in a National Executive Council.

**10.2. Composition of the National Executive Council**

The National Executive Council shall comprise of members in good standing, and shall be composed as follows:

10.2.1. The President;

10.2.2. The Deputy President;

10.2.3. The Vice-President;

10.2.4. Representatives from each Province on the following basis:

- (a) Two representatives designated by each Province in which the Union has less than 2 399 members;
- (b) Two representatives designated by each Province in which the Union has less than 4 799 members;

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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- (c) Three representatives designated by each Province in which the Union has less than 7 199 members, or;
  - (d) Three representatives designated by each Province in which the Union has more than 7 200 members.
- 10.2.5. The Provincial Secretaries as delegates, ex officio and without voting rights; and
- 10.2.6. The Chief Executive Officer and the Deputy Chief Executive Officer, ex officio and without voting rights.
- 10.3. The number of votes allocated to each Province in the National Executive Council is the same as that for the National Congress or Special National Congress.
- 10.4. Vacancies which arise in the National Executive Council shall be filled by voting per ballot paper by the members of the Union in the same manner as that in which the council member was originally elected. A member appointed to fill a vacancy shall hold office for the unexpired portion of the term of office of his or her predecessor.
- 10.5. A member of the National Executive Council shall vacate his or her office in any of the following circumstances:
  - 10.5.1. on resignation from, suspension by or the scrapping of membership of the Union;
  - 10.5.2. should he or she have been absent from three consecutive meetings of the Council without informing the Chairperson of the National Executive Council;
  - 10.5.3. on resignation as a member of the National Executive Council by furnishing the Chief Executive Officer with written notice thereof;
  - 10.5.4. should his or her membership dues be more than 3 months in arrears;
  - 10.5.5. should he or she be dismissed by his or her Province;
  - 10.5.6. should he or she in any manner alter his or her eligibility for election to the position held by him or her in the Province, and the Provincial Standing Committee confirms that the position should not be filled;
  - 10.5.7. should he or she no longer be an education sector employee;
  - 10.5.8. should he or she change Provinces.
- 10.6. Notwithstanding the provisions of this Constitution the National Executive Council shall have the capacity -
  - 10.6.1. To recommend the participation of the Union in the establishment of a Bargaining or Statutory Council and, notwithstanding the provisions of the Constitution of any Negotiation or Statutory Council, to determine the representation of the Union therein;

## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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- 10.6.2. To establish and to approve the offices and positions for office-bearers of the Union;
- 10.6.3. To determine the service establishment of the Union, to appoint or to dismiss employees of the Union including a Chief Executive Officer other than where otherwise determined in this Constitution, to determine their remuneration and to define their duties;
- 10.6.4. From time to time to establish such committees as are deemed necessary to investigate and report on any matter which has been referred to them by the National Congress;
- 10.6.5. To consider, decide on, and present to the Registrar of Trade Unions, urgent or necessary amendments to the constitution of the Union, and cause same to be ratified at the first National Congress thereafter;
- 10.6.6. To take legal action on behalf of the Union or to defend any action instituted against the Union;
- 10.6.7. By purchase, hire or otherwise, to acquire any moveable or unmoveable property on behalf of the Union, to sell, hire out, hypothecate or otherwise to deal with any moveable or immovable property which belongs to the Union;
- 10.6.8. On behalf of or to the benefit of members to take legal action or to furnish legal assistance to members about matters affecting their service environment and to take legal action against individual members;
- 10.6.9. To open and to operate banking accounts in the name of the Union;
- 10.6.10. To make and to apply directives relating to procedural, administrative and disciplinary issues;
- 10.6.11. To decide on all procedural issues on which this Constitution is silent;
- 10.6.12. To engage in such other lawful acts as in the opinion of the National Executive Council are in the interests of the Union or its members and which are not inconsistent with the objectives set out in this Constitution or with any other matter in respect of which this Constitution makes specific provision;
- 10.6.13. To consider the advice of the Standing Committee in connection with appeals;
- 10.6.14. To define or designate Provinces, or Provincial borders, different from those described in the definitions clause;
- 10.6.15. To determine procedures and methods of conduct for Provinces when they grow or diminish, over or below the figures recorded in sections 16 and 17.
- 10.7. The National Executive Council is accountable to the National Congress and shall meet at least twice annually at a date and time determined by the President.
- 10.8. Special meetings of the National Executive Council shall be convened by the President either when he considers this desirable or on written request signed by at least 8



## **SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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members of the Council, in which case the meeting shall be convened within 7 days of receipt by the President of the request.

- 10.9. Members of the National Executive Council shall be informed in writing by the Chief Executive Officer at least 7 days in advance of the meeting of its time and venue.

10.9.1. At the discretion of the President a shorter period of notice, which may not be shorter than 24 hours, may be given in respect of special meetings.

10.9.2. An agenda shall be attached to each notice of meeting. Unless herein otherwise determined, in respect to all matters for determination by the National Executive Council decisions shall be taken by motions which have been properly seconded and on which polling has taken place by show of hands.

- 10.10. The quorum for meetings of the National Executive Council shall be 50%+1 of the persons entitled to vote at the meeting.

- 10.11. Should the persons present at the constitution of the meeting not be at least the number specified in subsection 10.10 the meeting shall be prorogued for 30 minutes.

- 10.12. The persons present after 30 minutes shall then constitute the prescribed quorum, provided that the persons present represent at least 50% of the provinces.

- 10.13. No motion shall be considered unless it has been seconded. Voting shall take place by show of hands (unless otherwise determined) on all matters constituting the subject material of motions, and decisions shall be reached on the basis of the majority of those present.

- 10.14. Voting in the National Executive Council shall take place on the same basis as in paragraph 9.4.2 above.

- 10.15. Should any urgent question arise between meetings of the National Executive Council which could be answered by a simple "Yes" or "No", the President may sanction voting by members by means of telephone, telefax and e-mail by the members of the Council.

- 10.16. The President may at his discretion invite any person to a meeting of the National Executive Council.

### **11. ELECTION OF OFFICE-BEARERS**

- 11.1. The term of office of all decision making structures, elected office-bearers and union representatives and official representatives shall be three years, commencing during November 2016, provided that the National Executive Council may, at its discretion, determine an amended period for official representatives.

- 11.2. In the event of vacancies that may arise, such vacancies shall be filled in a manner determined by the National Executive Council.

- 11.3. Candidates for the positions of office-bearer (President, Deputy President and Vice-President) shall be nominated and seconded by enfranchised delegates to the National Executive Council, provided that the immediate past President shall ex officio be a



member of the newly constituted National Executive Council, provided further that in the event that he or she is not duly elected as President, Deputy President or Vice-President, his or her membership of the National Executive Council shall be regarded as terminated.

- 11.4. The President, Deputy President and Vice-President shall be elected from different Provinces unless the National Congress otherwise determines.
- 11.5. The nomination and elections of the President, Deputy President and Vice-President shall take place by secret ballot.
- 11.6. At its first ordinary meeting in any given year the National Executive Council shall also ensure the election of the office-bearers of the Union should vacancies have arisen.

## **12. NATIONAL STANDING COMMITTEE**

- 12.1. The National Standing Committee of the Union shall consist of the following persons:
  - 12.1.1. The President;
  - 12.1.2. The Provincial representatives designated by the nine various Provincial Standing Committees; and
  - 12.1.3. The Chief Executive Officer and Deputy Chief Executive Officer ex officio and without voting rights.
- 12.2. The National Standing Committee shall be seized with the practical execution and application of the same capacities of the National Executive Council, and will by ratification be answerable to the National Executive Council.
- 12.3. The National Standing Committee shall meet at least 8 (eight) times per year or as determined by the President.
- 12.4. The National Standing Committee shall execute the directives of the National Executive Council.
- 12.5. A quorum of the National Standing Committee shall be at least 6 (six) members, of whom one must be an office-bearer.
- 12.6. The President may at his discretion invite any person to a meeting of the National Standing Committee.
- 12.7. The National Standing Committee shall be competent to hear appeals as envisaged in subsections 6.3 - 6.5 and to prepare these for final consideration by the National Executive Council.

**13. NATIONAL FINANCIAL ADVISORY COMMITTEE**

- 13.1. The National Standing Committee shall designate two of its members, and shall further consist of two co-opted properly qualified bookkeepers, and the Chief Executive Officer, to comprise it's National Financial Advisory Committee.
- 13.2. The co-opted bookkeepers may be employees of the Union.
- 13.3. The National Financial Advisory Committee shall be seized with oversight of:
  - 13.3.1. The finances of the Union;
  - 13.3.2. The compilation and drafting of the budget of the Union;
  - 13.3.3. Adherence to the Union Budget;
  - 13.3.4. The broad corporate governance and management of monies received by the Union;
  - 13.3.5. The application of the Agency Fee monies received;
  - 13.3.6. Any such other financial functions as the National Standing Committee or National Executive Council may direct.
- 13.4. The National Financial Advisory Committee will make recommendations to the National Standing Committee, and will at least meet quarterly and report in writing to the National Standing Committee.

**14. NATIONAL OFFICE-BEARERS**

- 14.1. All office-bearers shall be members of the Union engaged in education practice.
- 14.2. The duties of the officer-bearers and the Chief Executive Officer shall be as follows:
  - 14.2.1. **President**
    - (a) The President shall preside at all meetings at which he or she is present, enforce compliance with the Constitution of the Union, sign Minutes of meetings after they have been approved and in general exercise oversight over the business of the Union and execute such other duties as usage and custom render applicable to the office.
    - (b) He or she shall exercise a deliberative vote only with regard to positions and issues. In instances where a voting deadlock is reached and which concern an individual, lots shall be drawn.
    - (c) The term of office of the President shall be 3 years.
  - 14.2.2. **Deputy President and Vice-President**
    - (a) The Deputy President shall exercise the functions and discharge the duties of the President in the latter's absence, and the Vice-President

shall substitute for the Deputy President whenever the latter is not available.

- (b) The period of office of the Deputy President and the Vice-President shall be 3 years.

**14.2.3. Acting President**

- (a) Whenever the President, the Deputy President and the Vice-President are all unable to perform their duties whether temporarily or permanently, the National Executive Council shall appoint a member of the Union to act as President.
- (b) He or she shall fill the office until the President, Deputy President and Vice-President are able to resume their duties, or, in any instance where the President, the Deputy President and the Vice-President are permanently unable to discharge their duties, until a new President, Deputy President and Vice-President have been elected.
- (c) Those concerned must satisfy the requirements of subsection 14.1.

**15. OFFICIALS AT NATIONAL LEVEL**

Officials, at National or Provincial level, are persons as identified and described by the definitions of Labour Relations Act, 66 of 1995.

**15.1. Chief Executive Officer**

- 15.1.1. The Chief Executive Officer shall receive requests for meetings of the National Congress and the Executive Council, shall despatch notices of meetings, shall deal with the correspondence of the Union, shall preserve correspondence which has been received as well as answers thereto which have been despatched, shall at each meeting of the national structures table relevant correspondence which has taken place since the previous meeting, shall attend all meetings of the National Congress and the National Executive Council and shall cause minutes of the proceedings to be kept, shall issue official receipts for all monies received, shall submit reports on the financial position of the Union to the Standing Committee, shall cause the Union to be represented in negotiation and dispute settlement forums, and shall discharge such other duties as enjoined by this Constitution or as directed by the national structures.
- 15.1.2. He or she shall attend all the meetings of the National Executive Council unless excused by the President for acceptable reasons, but shall have no voting right at such meetings. He or she shall exercise oversight over applicable Provincial matters and the Provincial Secretaries.
- 15.1.3. He or she shall exercise control over employees. He or she may designate employees to function as officials as practice may require.

15.1.4. In addition to the duties prescribed in paragraph 15.1.1 above, the Chief Executive Officer shall perform the duties enjoined by sections 98, 99 and 100 of the Labour Relations Act, 1995 in connection with the keeping of records and the provision of information to the Registrar, as well as being an official of the Union.

**15.2. Deputy Chief Executive Officer**

The National Executive Council may appoint a Deputy Chief Executive Officer who shall assist the Chief Executive Officer in the execution of his or her duties. Should the Chief Executive Officer temporarily be unable to perform his or her duties the Assistant Chief Executive Officer shall act as Chief Executive Officer until such time he or she is able to assume his or her duties. The provisions of subsection 15.1 above shall *mutatis mutandis* apply to the Assistant Chief Executive Officer.

**15.3. Other Officials**

The National Standing Committee may upon the advice of the Chief Executive Officer appoint any other officials as envisaged in section 95(5)(l) of the Labour Relations Act, 66 of 1995, in and under any terms they may deem fit.

**16. PROVINCIAL GOVERNANCE**

16.1. To be recognised as a functioning and participating Province within the Union, a Province shall retain 500 members.

16.2. The Union further distinguishes three categories of Provinces namely:-

16.2.1. Those having a membership from 500 up to and including 2 398 (Small Provinces); and

16.2.2. Those having 2 399 up to and including 4799 members (Medium Provinces); and

16.2.3. Those having more than 4800 members (Large Provinces).

16.3. Provinces will by election appoint office-bearers as set out in paragraph 18.

16.4. Provinces will have officials as set out in paragraph 20 and 21.

**17. CIRCUITS**

17.1 In Small Provinces, a Circuit shall be established for every 500 members; the final number of Circuits shall be rounded upward or downward, at the discretion of the Provincial Executive Council, subject to subsection 17.7.

17.2 In Medium Provinces, a Circuit shall be established for every 800 members; the final number of Circuits shall be rounded upward or downward, at the discretion of the Provincial Executive Council, subject to subsection 17.7.

- 17.3 In Large Provinces, a Circuit shall be established for every 1100 members; the final number of Circuits shall be rounded upward or downward, at the discretion of the Provincial Executive Council, subject to subsection 17.7.
- 17.4 Notwithstanding the former, Small Provinces shall be entitled to establish a minimum of 3 (three) Circuits.
- 17.5 Notwithstanding anything to the contrary contained in this Constitution, Small Provinces may, subject to the approval of the National Standing Committee, elect to establish only 3 (three) Circuits.
- 17.6 Each Circuit is entitled to elect 3 (three) Circuit Organisers, provided that the Provincial Executive Council shall be entitled to further divide a circuit in specific geographical regions to ensure a reasonable distribution of Circuit Organisers.
- 17.7 Each Provincial Executive Council shall submit their proposed Circuits at least 6 (six) months prior to the election of the new Provincial Executive Council to the National Standing Committee for approval, based on the provincial membership as at 31 December of the preceding year.

## **18. PROVINCIAL EXECUTIVE COUNCIL**

- 18.1. Each Circuit in a Province shall elect 3 (three) members who shall be known as Circuit Organisers.
- 18.2. The Circuits are as designated by the Provincial Executive Council.
- 18.3. In each Province the Provincial Executive Council shall comprise of the sum total of the Circuit Organisers of that Province.
- 18.4. The Provincial Executive Council shall by simple majority elect a Provincial Chairperson and Deputy Chairperson from its ranks.
- 18.5. The Provincial Chairperson and Deputy Chairperson shall not represent the Circuit from which they have been elected, but shall be replaced by two other members from the Circuits from which they have been elected.
- 18.6. The previous Provincial Executive Council will become functus officio immediately after the election of the new Provincial Executive Council.
- 18.7. The Competencies of the Provincial Executive Council:
  - 18.7.1. The Provincial Executive Council is the highest authority in the Province.
  - 18.7.2. To make recommendations to the National Executive Council or National Standing Committee regarding litigation.
  - 18.7.3. To receive, consider and ratify any information supplied, or decisions made by the Provincial Standing Committee.
  - 18.7.4. To create Circuits.

18.7.5. To determine the duties of any Circuit Organizers.

18.8. The term of office of a Provincial Executive Council member may be terminated when he or she has been absent without informing the chairperson after three consecutive Provincial Executive Council meetings.

## **19. PROVINCIAL STANDING COMMITTEE**

19.1 The Provincial standing Committee shall comprise -

19.1.1. The Provincial Chairperson; and

19.1.2. The Provincial Deputy Chairpersons; and

19.1.3. One elected person per Circuit; and

19.1.4. Any of the co-opted persons referred to in subsections 20.2 and 20.3 at the discretion of the Provincial Chairperson; and

19.1.5. The Provincial Secretary ex officio and without voting rights.

19.2. Competencies of the Provincial Standing Committee:

19.2.1. To deal with differences arising at the Provincial level between members and their employers and to attempt to resolve differences.

19.2.2. To appoint from time to time such sub-committees as are considered to be suitable for the purpose of investigation and report on matters which have been referred to them by the Provincial Standing Committee or the Provincial Executive Council.

19.2.3. To exercise financial functions as delegated from time to time by the National Congress.

19.2.4. To perform such other lawful acts as in the opinion of the Provincial Standing Committee are in the interests of the Union or its members, and which are not inconsistent with the objectives set forth in section 3 or with any other matter specifically determined by the Constitution.

## **20. PROVINCIAL OFFICE-BEARERS : CHAIRPERSON AND DEPUTY CHAIRPERSON**

20.1 Through its Provincial Executive Council each Province shall elect a Chairperson and Deputy Chairperson as specified in subsection 18.4 above.

20.2 The Provincial Chairperson shall be entitled to co-opt onto the Provincial Executive Council a maximum of 5 (five) further persons.

20.3 The purpose of such further co-option shall be to ensure the attainment of balance of representivity in the structure with regard to race, gender, Post Level 1 educators, disabled persons and a niche group insofar as the normal election process in the Province

may not already have placed such persons and/or group in the Provincial Executive Council.

20.4 The Provincial Chairperson shall be entitled to invite any person to attend meetings or gatherings.

## **21. PROVINCIAL SECRETARY**

21.1 The Union may appoint a Provincial Secretary for each Province. Subject to the necessary adaptation in order to suit the specific Province, the duties of the Provincial Secretary in the Province shall be similar to those of the Chief Executive Officer.

21.2 The Provincial Secretary will be an official of the Union.

## **22. UNION REPRESENTATIVES**

22.1 Union Representatives, as described in section 95(5)(k) of the Labour Relations Act, 66 of 1995, shall implement and give effect to the decisions of the National Congress, the National Executive Council or the Provincial Executive Council, or Provincial Standing Committee, shall recruit members and advance their interests in general, represent members during dispute resolution and collect membership dues where applicable.

22.2 In terms of the provisions of section 14(4) of the Labour Relations Act, 1995, the Union Representative shall -

22.2.1. Assist and represent on request an employee in the workplace at grievance and disciplinary procedures.

22.2.2. Monitor the compliance of the employer with a law which regulates employment terms and conditions.

22.2.3. Report to the employer, the Union, or a responsible authority or agency any alleged violations of a law which regulates employment terms and conditions.

22.2.4. Perform any other duties as directed by the Provincial Executive Council.

## **23. REMOVAL FROM OFFICE OR DISCHARGE**

### **23.1. Office-Bearers**

23.1.1. An office-bearer, or Workplace representative, or any person who discharges a function on behalf of the Union but who is not also an employee of the Union, may be removed from his or her office should he or she violate any provision of this Constitution, and should he or she act in a fashion which in the opinion of the Union is detrimental to the interests of the Union.

23.1.2. No office-bearer or Workplace Representative may be removed from his or her office unless he or she has been furnished with the opportunity to state his or

her case personally at a meeting of the specific management structure to which he or she normally reports.

23.1.3. An office-bearer or Workplace Representative who has appeared before the applicable management structure to which he or she reports-

- (a) In the case of national office-bearers, before the National Standing Committee, and,
- (b) In the case of any other office-bearer before the Provincial Standing Committee and if the member is dissatisfied with the decision of the relevant body, he or she shall have the right to appeal as follows:
  - (i) In the case of a national office-bearer to the National Executive Council.

Notice of appeal shall be furnished in writing to the Chief Executive Officer within 14 (fourteen) days after the date on which the decision has been conveyed to the affected person.

The decision of the National Executive Council shall be final.

- (ii) In the case of an office-bearer in a Province or a Workplace Representative, to the President.

Notice of appeal shall be furnished in writing to the Chief Executive Officer within 14 (fourteen) days after the date on which the decision has been conveyed to the affected person.

The decision of the President shall be final.

## **23.2. Employees**

23.2.1. The Union may appoint employees that are not officials.

23.2.2. All employees are entitled to the rights contained in the Labour Relations Act, 1995 and any other generally applicable labour legislation.

23.2.3. The Union shall at all times, and prior to the dismissal of any employee, protect the rights of such employee in terms of the disciplinary code and relevant policy of the Union.

23.2.4. An employee may, in writing, from time to time, temporarily or permanently be designated as an official for any purpose the Chief Executive Officer may deem fit.

23.2.5. The Union may designate any employee as an official under terms it may deem fit, and subject to subsection 15.3 of this Constitution.



**24. MEETINGS**

24.1. Save where this Constitution regulates otherwise the following arrangements will be applicable to any meeting of the Union or of its Members:

- 24.1.1. Meetings shall be called and convened by designated officials;
- 24.1.2. Notice as well as an agenda shall be given in writing or by any prevailing electronic means;
- 24.1.3. Meetings shall start on the designated time;
- 24.1.4. If no quorum is present the meeting shall stand down for 30 minutes, and reconvene;
- 24.1.5. Parties present at the re-convening will constitute a quorum;
- 24.1.6. Business will be conducted under the control of a chairperson – elected by agreement, failing which the convening official shall nominate such a person, which may include him or herself;
- 24.1.7. The given agenda may be supplemented by any other additional item if notice in writing of such an item(s) was given to the convening official at least 24 hours before the meeting;
- 24.1.8. If the subject matter of a meeting requires a vote, same will be done by a show of hands, counted and correlated by the convening official and any person she or he designates to assist, subject to section 25 of this Constitution.

**25. DECISIONS OF THE UNION AND VOTING BY BALLOT**

**25.1. Union Decisions**

Decisions of the Union may be made in the following manner:

- 25.1.1. By show of hands
- 25.1.2. By ballot

**25.2. By show of hands**

In the normal course of events, all decisions of the Union will be made by way of show of hands of the members entitled to vote on such matters. The relevant structure shall be bound to take action according to the decision of a majority of members voting by show of hands unless the constitution of the Union requires a two-thirds majority.

**25.3. By ballot**

All voting by ballot must be secret and recorded. The ballot must be conducted in terms of a voters' roll of those members who are in good standing in terms of this constitution of the Union.

25.3.1. In addition to those cases in respect of which the taking of a ballot of members of the whole Union is compulsory in terms of this Constitution, a ballot shall be taken if the National Executive Council so decides, and shall also be taken -

- (a) if demanded in writing by not less than 3 (three) provinces or 15% of the members of the Union; or
- (b) on any proposal to declare or take part in any strike.

25.3.2. Ballots shall be conducted in the following manner:

- (a) Notice of a ballot shall be communicated to each member by the Chief Executive Officer, at least 3 (three) days before the ballot is to be taken - provided that a ballot may be taken without notice at any general meeting on the decision of a majority of the members present.
- (b) Two scrutineers shall be appointed by the National Executive Council or the National Congress to supervise any ballot and to ascertain the result thereof.
- (c) Except in the case of postal ballots, electronic ballots and ballots taken at general meetings on the decision of a majority of the members present, ballots shall be conducted at the office of the Union or at such other places as may be specified in the notice referred to in paragraph 25.3.2 (a) of this subsection on the date and during the hours specified in the said notice.
- (d) Ballot papers shall be supplied by the Chief Executive Officer. 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.
- (e) Ballot boxes shall be inspected by the scrutineers and sealed by the Chief Executive Officer in their presence prior to the issuing of ballot papers.
- (f) One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot to each member who is entitled to vote.
- (g) Each voter shall, in the presence of the observers, be issued with one ballot paper which he or she shall thereupon complete, fold and deposit in a ballot box provided for the purpose.

- (h) 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 or her vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- (i) On completion of a ballot or as soon as possible thereafter, the result thereof shall be ascertained by the observers appointed in the presence of the Chief Executive Officer and made known to the National Executive Council.
- (j) Ballot papers, including spoilt papers, shall be placed in a container which shall be sealed after they have been counted and retained by the Chief Executive Officer for not less than 3 (three) years. In the case of an electronic ballot, the result shall be saved on an electronic device and retained by the Chief Executive Officer for not less than 3 (three) years.

25.3.3. The National Executive Council may decide that a postal ballot of members shall be taken, in which event the ballot shall be conducted in the following manner:

- (a) The Chief Executive Officer shall send by registered post to each member of the Union a ballot paper and a stamped and addressed envelope marked "Ballot". The ballot paper shall on completion be inserted in the envelope provided for the purpose which shall be sealed and posted so as to reach the Chief Executive Officer within 14 (fourteen) days from the date of despatch from head office to such member. On receipt of such envelopes, the Chief Executive Officer shall immediately place such envelopes in a sealed ballot box.
- (b) Two observers shall be appointed by the National Executive Council to ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the observers in the presence of the Chief Executive Officer, who shall immediately advise the National Executive Council of the result of the ballot.
- (c) The same procedure shall mutatis mutandis apply to a postal ballot confined to members of the National Executive Council. (Section 95(5)(p) of the Labour Relations Act, 66 of 1995)

25.3.4. The National Executive Council may decide that an electronic ballot of members shall be taken, in which event the ballot shall be conducted either by e-mail via the internet or by means which will enable members to electronically cast their votes, in the following manner:

- (a) The Chief Executive Officer shall communicate the instructions prescribed in the electronic communication to each member of the Union. The members will cast their vote according to the instructions prescribed in the electronic communication.
- (b) Two independent scrutineers shall be appointed by the National Executive Council to verify the result of the electronic ballot. The Chief

Executive Officer shall immediately in the presence of the two independent scrutineers, inform the National Executive Council of the result of the electronic ballot.

- (c) The same procedure shall mutatis mutandis apply to an electronic ballot confined to members of the National Executive Council. (Section 95(5)(p) of the Labour Relations Act, 66 of 1995)

25.3.5. In any ballot conducted in connection with any election, the candidates, up to the required number, receiving the highest number of votes shall be declared elected.

25.3.6. In the event that circumstances surrounding a ballot have changed prior to execution having been given to the mandate of the members on the matter, the National Executive Council shall have the discretion to lay before the members a revised ballot for purposes of a fresh mandate better related to the changed circumstances.

25.3.7. The Union shall, before calling a strike, conduct a secret ballot of those of its members in respect of whom it intends to call the strike. (Section 95(5)(q) of the Labour Relations Act, 66 of 1995).

**25.4. Despite any other provision in this Constitution -**

25.4.1. A strike may only be called in terms of this Constitution after a secret ballot has been conducted of those members in respect of whom the strike is called.

25.4.2. A member shall not be disciplined or have their membership terminated for failure or refusal to participate in a strike if –

- (a) A secret ballot was not held about the strike if;
- (b) A secret ballot was held, but a majority of the members who voted did not vote in favour of the strike.

25.5. The documentary or electronic record of a ballot about a strike must be retained for three years from the date of the ballot.

**26. FINANCE**

**26.1. Head Office**

26.1.1. The funds of the Union shall be applied to the payment of expenses, to the acquisition of property, towards the attainment of the objectives specified in paragraph 3 and for such other lawful purposes as may be decided upon by the National Congress or the National Executive Council or by members voting by ballot for the attainment of the said objects.

26.1.2. The funds received by the Chief Executive Officer on behalf of the Union shall be deposited to its credit within 7 (seven) working days of receipt, at a bank decided upon by the National Executive Council.

26.1.3. Payments will be made electronically after authorization by the National Standing Committee, upon advice of the National Financial Advisory Committee.

**26.2. General**

26.2.1. Statements of income and expenditure reflecting the financial position of the Union shall be furnished at least quarterly by the Chief Executive Officer and submitted to the National Standing Committee. The Chief Executive Officer shall also be responsible for furnishing the National Congress with the Union's latest financial statements.

26.2.2. Accordance with the provisions of section 98(1)(b) of the Labour Relations Act, 1995, the Chief Executive Officer shall prepare a statement of income and expenditure and a balance sheet in respect of each financial year ending on the 28th of February. Such statements and balance sheets shall be audited and dealt with as required by section 98(2) of the Act.

26.2.3. The Union shall maintain proper financial records in order to be able to compile annual financial statements which comply with Generally Accepted Accounting Practice or like standard.

26.2.4. Legal and other professional expenses shall be borne by the Union.

26.2.5. A member who resigns or is expelled from membership shall have no claim on the funds of the Union.

26.2.6. The National Standing Committee shall, subject to confirmation by the National Congress, have the power to invest surplus Union monies in such a manner that the Union stands to benefit from the investments.

**26.3. Auditor**

A registered accountant and auditor shall be appointed by the Union as its auditor to audit the financial records and to report annually thereon. The appointment or re-appointment of an auditor shall be done annually by the National Executive Council during the meeting at which the annual financial statements are tabled for consideration and approval.

**27. REPRESENTATION IN BARGAINING AND STATUTORY COUNCILS**

27.1. The National Executive Council can at any time recommend that the Union whether independently or in conjunction with another party or parties shall become a party to a Bargaining or Statutory Council which has been established in terms of the Labour Relations Act, 1995; including participation in any dispute resolution mechanisms introduced by such Council.

27.2. Representatives and their alternates shall be appointed by the National Standing Committee.

- 27.3. Representatives or their alternates in a Bargaining or Statutory Council can be removed from office by the National Congress or by the National Executive Council, and may resign by furnishing notice of 14 days to the National Executive Council or such notice as may be prescribed in the Constitution of the Council concerned.
- 27.4. In the case of the resignation or decease of a representative or alternate or removal from office by the National Executive Council or Provincial Executive Council the vacant position shall be filled by the National Executive Council or the Provincial Executive Council as the case may be.

## **28. AMENDMENT OF THE CONSTITUTION**

- 28.1. Any of the provisions of this Constitution may be revoked or amended by resolution of the National Congress of the Union or an addition may be made in any fashion, and it may also be amended by the National Executive Council in urgent cases as set out in paragraph 10.6.5 on the understanding that at least 14 (fourteen) days' notice of any proposed amendment shall be furnished to the Provinces. Should a Province during that period demand that a ballot by ballot paper of the entire Union should be held about the matter, such a ballot shall be held.
- 28.2. No amendment or addition shall take effect until it has been certified in terms of section 101(3) of the Labour Relations Act, 1995.

## **29. WINDING-UP**

- 29.1. The Union shall be wound up if at a ballot conducted in the manner prescribed in the constitution not less than three-fourths of the total number of members of the Union vote in favour of a resolution that the organisation be wound up.
- 29.2. If a resolution for the winding-up of the Union has been passed or if for any reason the Union is unable to continue to function, the following provisions shall apply:
- 29.2.1. The last appointed president of the Union, or if he or she is not available, the available members of the last-appointed National Executive Council of the Union, shall forthwith transmit to the Labour Court a statement signed by him/her or them setting forth the resolution adopted or the reasons for the Union's inability to continue to function, as the case may be, and request the Labour Court to grant an order in terms of section 103 of the Labour Relations Act, 1995.
- 29.2.2.
- (a) The liquidator appointed by the Labour Court shall call upon the last-appointed office-bearers of the Union to deliver to him/her the Union's books of accounts showing the assets and liabilities together with the register of members showing, for the 12 months prior to the date on which the resolution for winding-up was passed or to the date as from which the Union was unable to continue to function, as the case may be, (hereinafter referred to as the date of dissolution), the membership fees paid by each member and his or her address as at the said date.

**SAOU CONSTITUTION**

*(proposed amendments as ratified by the National Executive Council on 10 March 2022)*

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(b) The liquidator shall also call upon the said office-bearers to hand over to him/her all unexpended funds of the Union and to deliver to him/her the Union's assets and the documents necessary to liquidate the assets.

29.2.3. The liquidator shall take the necessary steps to liquidate the debts of the Union from its unexpended funds and any other monies realised from any assets of the Union, and if the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met, the order in which creditors shall be paid shall be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate, and the liquidator's fees and the expenses of winding-up shall rank in order as that of an insolvent estate and as though the expenses were the costs of sequestration of an insolvent estate.

29.2.4. After the payment of all debts in accordance with paragraph 26.1.3, the remaining funds, if any, shall be distributed among the remaining members of the Union on the basis of membership fees actually paid during the 12 months prior to the date of dissolution.

29.2.5. After the payment of all the liabilities, any assets that cannot be disposed of in accordance with the provisions of this clause shall be realised by the liquidator and the proceeds paid to the Commission for Conciliation, Mediation and Arbitration (in accordance with section 103(5) of the Labour Relations Act, 1995).

29.2.6. The liability of members shall for the purpose of this clause be limited to the amount of membership fees due by them to the Union in terms of this Constitution as at the date of dissolution.

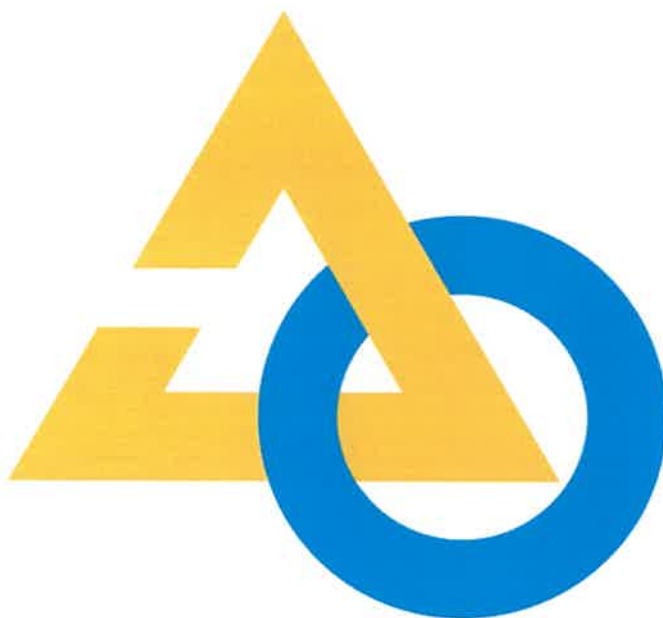
  
\_\_\_\_\_  
PRESIDENT

15/03/2022  
DATE

  
\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

15/03/2022  
DATE





# SAOU

## Disciplinary Code and Procedures for Members

SUID-AFRIKAANSE ONDERWYSERSUNIE  
(TRANSLATED AS SOUTH AFRICAN TEACHERS' UNION )

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a personal name.



## **DISCIPLINARY CODE AND PROCEDURES FOR SAOU MEMBERS**

The purpose of this Code is to bring uniformity to the internal disciplinary procedures against any SAOU member. This Code should be viewed as a measure to cultivate a SAOU culture that demands the best behaviour of its members.

This Code, as well as the SAOU Charter, as approved from time to time by the National Standing Committee must be read together as these two documents compose the CODE OF CONDUCT for members of the SAOU.

### **1. DEFINITION OF TERMS**

#### **1.1. Accused Member**

Means a SAOU member against whom a complaint was lodged.

#### **1.2. Complainant**

Is defined as the SAOU member or SAOU constitutional structure that lodged a complaint of misconduct against another SAOU member.

#### **1.3. Disciplinary Committee**

- a. Is defined as either a Provincial Disciplinary Committee where appropriate;
- b. A National Disciplinary Committee where appropriate; or
- c. An Appeal Committee, where appropriate.

#### **1.4. Independent**

Is defined as a disciplinary committee that consists of members as appointed by the National Standing Committee, but who are not members of the National Standing Committee.

#### **1.5. Legally qualified**

Is defined as a person with an appropriate law qualification.

#### **1.6. Misconduct**

Any act or omission as defined by the Constitution and Clause 8.1 of this Code.

### **2. APPLICATION OF THIS CODE**

This Code applies to all SAOU members.

### **3. SOURCE OF THIS CODE**

This Code derives its mandate from the SAOU Constitution, as well as all decisions and policies of the SAOU.

### **4. ESTABLISHMENT OF INDEPENDENT DISCIPLINARY AND APPEAL COMMITTEES**

- 4.1. The National Standing Committee shall appoint a chairperson and two (2) other persons to constitute the National Disciplinary Committee or a Provincial Disciplinary Committee.
- 4.2. At least one member of the relevant Disciplinary Committee shall be legally qualified.

- 4.3. The National Standing Committee shall appoint three (3) persons, of whom one (1) must be legally qualified, to constitute the Appeal Committee.
- 4.4. The National Standing Committee may substitute the chairperson and members of the relevant Disciplinary Committee and Appeal Committee at its discretion, prior to the formal commencement of the disciplinary procedures.
- 4.5. The Chairperson of the relevant Disciplinary Committee shall ensure that the disciplinary hearing is at all times heard by an uneven number of committee members.
- 4.6. Any financial cost incurred by a Disciplinary Committee shall be paid by the structure that appointed that Disciplinary Committee.

**5. POWERS OF DISCIPLINARY AND APPEAL COMMITTEES**

- 5.1. The Provincial Disciplinary Committee conducts disciplinary proceedings at provincial level. The National Disciplinary Committee conducts disciplinary proceedings at national level. The Appeal Committee hears appeals from the National Disciplinary Committee and the National Disciplinary Committee from the Provincial Disciplinary Committee. Any party to the proceedings is entitled to only one internal appeal.
- 5.2. The relevant disciplinary committee may conduct proceedings in a manner it considers appropriate in order to determine a matter fairly and expeditiously, and must deal with the substantial merits of each matter with the minimum of legal formalities.

**6. DECISIONS AND RECOMMENDATIONS FROM DISCIPLINARY COMMITTEES**

- 6.1. The relevant disciplinary committee decides, by majority vote, on the finding as well as on the sanction, based on the merits of the case. A member of the relevant disciplinary committee may not abstain from a decision.
- 6.2. The Chairperson of the relevant disciplinary committee may co-opt an additional person(s) as an assessor(s) to attend, assist and advise the disciplinary committee. Assessors may not vote.
- 6.3. The recommendation of the relevant disciplinary committee regarding the proposed sanction against the accused member may only be amended by the National Standing Committee, on good reasons shown.

**7. PROCEDURE TO FOLLOW A COMPLAINT OF MISCONDUCT**

- 7.1. Any member of the SAOU and / or duly constituted structure of the SAOU may lodge a written complaint of an alleged misconduct by another member or structure to the relevant Provincial Secretary if the alleged misconduct occurred at provincial level or to the Chief Executive Officer of the SAOU if the alleged misconduct occurred at national level.
- 7.2. This complaint must be submitted within thirty (30) days after the complainant became aware of the alleged misconduct, however the Provincial Secretary or Chief Executive Officer may recommend that the National Standing Committee may approve a disciplinary process that addresses historical cases that are more than thirty (30) days old on a case by case basis on its own accord or as recommended by a structure of the Union.
- 7.3. The relevant secretary shall confirm in writing receipt of the complaint within three (3) working days to the Complainant, the Accused member and the relevant structure.

- 7.4. The relevant secretary must conduct a preliminary investigation in order to determine whether to charge the accused member with misconduct. The Secretary may adopt an approach to the investigation which he or she considers appropriate given the nature of the allegation.
  - 7.5. After the completion of the Secretary's preliminary investigation he /or she must in writing report to the relevant provincial chairperson regarding the preliminary investigation and recommendation to the relevant Standing Committee to:
    - 7.5.1. Proceed with the investigation and disciplinary hearing (with or without the suspension of the Accused person); or
    - 7.5.2. Discontinue the investigation.
  - 7.6. In the event that the relevant Standing Committee accepts the recommendation of the Provincial Secretary or the Chief Executive Officer to -
    - 7.6.1. discontinue the investigation against the Accused person, then the decision of the relevant Standing Committee shall be communicated to the Accused member and the Complainant; or
    - 7.6.2. continue with the investigation against the Accused member then the National Standing Committee must further decide whether the circumstances warrant a suspension subject to the provisions of Clause 8 here below.
  - 7.7. In the event that the National Standing Committee accepts the recommendation of the Provincial Secretary or the Chief Executive Officer to continue with the investigation against the Accused member then a Prosecutor must be appointed by the Chief Executive Officer.
8. **SUSPENSION AND EXPULSION OF THE ACCUSED MEMBER**
- 8.1. If any member, in the opinion of the National Standing Committee -
    - 8.1.1. commits any breach or misconduct in terms of the requirements of the Constitution;
    - 8.1.2. introduces into the Union any person whose presence therein shall be prejudicial to the interests or reputation of the Union or objectionable to the members, or
    - 8.1.3. be guilty of conduct unbecoming of a professional educator, or be prejudicial to the interests and reputation of the Union, whether within the Union's precincts or outside them, the National Standing Committee shall have the power to suspend such member from the use of the Union's premises and privileges for such period as the National Standing Committee may deem fit, or to request such member in writing to resign, and pending the receipt of such resignation, to suspend him or her from the use of the Union's premises and privileges, and if he or she fails to resign within seven days after the date of such request, then the National Standing Committee shall be entitled to summarily expel such member.
  - 8.2. A member suspended in terms of Clause 8.1 shall not be relieved from liability to pay his or her membership fees in respect of the period of suspension.
  - 8.3. In the case of serious misconduct, the power of suspension and expulsion may be exercised by the National Standing Committee whether or not this committee shall in its unfettered

discretion, have afforded the member any opportunity for explaining or making representations concerning his or her conduct.

- 8.4. The quorum of a meeting of the National Standing Committee called for the purpose of considering the suspension or expulsion of a member shall be one of the President, the Deputy President or Vice President, the Chief Executive Officer and at least five provinces.
- 8.5. The decision by the National Standing Committee shall be arrived at by ballot. It shall not be incumbent upon the National Standing Committee to state its reasons for such suspension or expulsion. A member shall have the right to exercise any appropriate legal remedy for alleged wrongful suspension or expulsion.
- 8.6. When a member is expelled from the Union, the National Standing Committee shall advise all the Members of the Union of the fact that such person is no longer a Member.

#### **9. APPOINTMENT OF A PROSECUTOR AND THE FORMULATION OF CHARGES**

- 9.1. The Chief Executive Officer shall appoint a Prosecutor within three (3) working days after the National Standing Committee accepted a recommendation as a result of Clause 7.5.1. The Prosecutor may be a member, a non-member or an official of the SAOU who has the relevant skills depending on the nature of the allegations.
- 9.2. The Prosecutor must investigate and formulate the charges against the Accused member and commence the disciplinary hearing against the Accused member. The Prosecutor may adopt an approach to the investigation which he or she considers appropriate given the nature of the allegation.
- 9.3. Upon finalisation of the Prosecutor's investigation he / or she:
  - 9.3.1 may recommend to the National Standing Committee to lift the suspension of the Accused member and to discontinue any investigations against the Accused member. This recommendation of the Prosecutor must be made within twenty (20) working days after receiving instructions from the Chief Executive Officer to prosecute; or
  - 9.3.2 must formulate the charges against the Accused person and issue it to both the Chairperson of the Disciplinary Committee and to the Accused person.

#### **10. DISCIPLINARY HEARING**


- 10.1. As soon as reasonably possible after receiving a referral from the Prosecutor, the Chairperson of the Disciplinary Committee must determine a date(s) for a disciplinary hearing and inform the Prosecutor and the Accused member thereof.
- 10.2. The disciplinary hearing date(s) must be not less than ten (10) working days but also not more than thirty (30) working days from the date on which the Prosecutor has referred the matter to the Chairperson of the Disciplinary Committee.
- 10.3. Within five (5) working days after receiving the date(s) for the disciplinary hearing from the Chairperson, the Prosecutor must issue a written notice to the Accused member informing him or her of:
  - 10.3.1. the charges of misconduct;

- 10.3.2. the date, time and venue of the disciplinary hearing; and
- 10.3.3. his or her rights, including the right to representation by another SAOU member at his or her own cost, the right to call witnesses and to present evidence, and the right to question the SAOU's evidence and witnesses.
- 10.4. The Disciplinary Committee must conduct the disciplinary hearing and make recommendations in the manner set out here below.
- 10.5. The proceedings must be minuted and / or recorded. The proceedings are only open to the relevant people. Disciplinary hearings may proceed in the absence of the Accused member if there is sufficient evidence that he / or she has been timeously informed about the date of the hearing.
- 10.6. The Disciplinary Committee must decide whether the Accused member is guilty of misconduct and, if so, must consider representations from the Accused member and the Prosecutor as to the appropriate sanction.
- 10.7. The possible sanctions that the Disciplinary Committee may impose include, but are not limited to, suspension for a specified period, a written apology, expulsion and/or any other appropriate sanction.
- 10.8. When deciding on an appropriate sanction the Disciplinary Committee must take into account the seriousness of the misconduct, the effect thereof on the SAOU and on its relationship with the accused member, SAOU's purpose, mission and standards of conduct, mitigating and aggravating circumstances, the need for deterrence, and any other relevant factor.
- 10.9. The Disciplinary Committee must complete the disciplinary hearing within twenty (20) working days after its commencement, subject to the Chairperson's discretion to extend this period in exceptional circumstances, if it would be unfair not to do so.
- 10.10. The Disciplinary Committee must make a written recommendation to the National Standing Committee within ten (10) working days after completing the disciplinary hearing.
- 10.11. Based on the report of the Disciplinary Committee the National Standing Committee shall consider the report and decide on the matter.
- 10.12. The President or Chief Executive Officer must accordingly communicate the decision of the National Standing Committee to the Accused member and inform him / or her of his / or her right to appeal to the next higher disciplinary committee within fourteen (14) working days of receiving the decision.

## **11. APPEAL**

- 11.1. A member is entitled to only one level of appeal. A member who was disciplined by the Provincial Disciplinary Committee may appeal to the National Disciplinary Committee. A member who was disciplined by the National Disciplinary Committee may appeal to the Appeal Committee.
- 11.2. The appeal body must consider the written submissions of the Accused member and the response thereto of the relevant standing committee and may call for a hearing in person, if it deems it necessary.

- 11.3. The appeal body must communicate its written recommendation to the National Standing Committee within fourteen (14) working days after deciding on the merits of the appeal.
- 11.4. The President or Chief Executive Officer must communicate the decision regarding the outcome of the appeal to the Accused member. The matter will then be regarded as final and internally exhausted.

  
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LH SWANEPOEL  
PRESIDENT

27/01/2021  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
J C KLOPPER  
CHIEF EXECUTIVE OFFICER

27/01/2021  
\_\_\_\_\_  
DATE