

# Windsor Essex Community Health Centre

BY-LAW: January 24, 2024

A By-law to amend, consolidate and restate the provisions of all previous by-laws.

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IT IS HEREBY ENACTED as a by-law of the Corporation, as follows:

## INTERPRETATION

1. **Definitions.** In this By-law, unless the context otherwise requires:
  - (a) **"Articles"** has the meaning given in the Ontario [Not-for-Profit Corporations Act, 2010](#) and includes articles of incorporation and letters patent, as may be continued and/or amended.<sup>1</sup>
  - (b) **"Board"** means the board of directors of the Corporation.<sup>2</sup>
  - (c) **"By-law"** means this by-law.
  - (d) **"Chair"** means the chair of the Board.<sup>3</sup>
  - (e) **"Conflict of Interest"**<sup>4</sup> means when there is potential to favour personal interests

1 "Articles" are what are commonly referred to as the charter or constitution – it is the document that brings a corporation into existence. The Corporation is an Ontario, non-share capital corporation, originally amalgamated December 10, 2009 by way of letters patent of amalgamation pursuant to the Ontario [Corporations Act](#). Relevant portions of the the Ontario [Corporations Act](#) were superseded by the Ontario [Not-for-Profit Corporations Act, 2010](#), effective October 19, 2021. Articles of Amendment under the Ontario [Not-for-Profit Corporations Act, 2010](#) were issued March 31, 2023.

2 Boards are comprised of directors, who collectively function as a decision-making body for the corporation.

3 For greater clarity, "Chair" does not mean "chair of the meeting," although it is contemplated by this By-law that the "Chair" will chair both Members' and Board meetings, unless absent, unable or unwilling.

4 Common law imposes a fiduciary duty on directors – also known as the duty of loyalty. This duty requires directors to act honestly, in good faith and in the best interests of the corporation served. It is a breach of fiduciary duty if a director has any other factors, other than the corporate best interests in mind, when participating in the collective decision making of the board. To capture certain problematic contexts, but

or those of other persons, over the interests of the Corporation, including the following:

- (i) **Financial Interest.** A Director has a financial interest in a decision when the Director, directly or through a family or business relationship, stands to gain by that decision, either in the form of money, gifts, favours, gratuities or other special considerations that have value.
  - (ii) **Contractual Interest.** A Director has a contractual interest, if a party to or a director or officer of any person who is a party to a material contract or transaction or proposed material contract or transaction with the Corporation.
  - (iii) **Competing Interest.** A Director has a competing interest with the Corporation when the Director directly or through a family or business relationship, has an affiliation with another entity that could be impacted by a decision of the Corporation.
  - (iv) **Adverse Interest.** A Director has an adverse interest to the Corporation when the Director directly or through a family or business relationship, is a party to a claim, application or proceeding that is adverse in interest to the Corporation's interests.
- (f) **"Corporation"** means Windsor Essex Community Health Centre.<sup>5</sup>
- (g) **"Director"** means a director of the Corporation.<sup>6</sup>
- (h) **"Documents"** includes cheques, drafts, orders for payment, deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligation, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper and electronic writings.
- (i) **"Electronically"** means telephone, electronic or other communication facilities that permit all persons participating in the meeting to communicate with each

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without limiting the larger duty to act in the best interests the corporation served, a director's fiduciary duty also includes the sub-duty to avoid conflicts of interest and the sub-duty to preserve independent judgment. Ontario [Not-for-Profit Corporations Act, 2010](#) sections 41 and 43 codifies these common law duties to some extent.

5 The Corporation's Ontario corporation number is: 1810637. The Ontario [Not-for-Profit Corporations Act, 2010](#) categorizes subject corporations as either public benefit or non-public benefit. Within the public benefit category, there are two subcategories: charitable and non-charitable. For more details about categorization see: <https://www.ontario.ca/page/guide-not-profit-corporations-act-2010>. In this case, the Corporation is categorized as charitable. The Corporation also has registered charity status under the Canada [Income Tax Act](#), having registration number [104184775 RR 0001](#). Registered charities are categorized as charitable organizations, public foundations or private foundations, with the Corporation classified as a charitable organization.

6 Directors are the individuals who are typically elected by the members to the board but can also be appointed by virtue of their office. This latter type of appointment is commonly referred to as an *ex officio* appointment. "Directors," "board members" and "members of the board" are synonymous terms and are in contrast to both "members" and "officers" of the Corporation.

other simultaneously and instantaneously.<sup>7</sup>

- (j) **“Executive Director”** means the executive director of the Corporation.
  - (k) **“Francophone”** has the meaning given by the Ontario Ministry of Health and Long Term Care from time to time.<sup>8</sup>
  - (l) **“Member”** means a member of the Corporation and **“Membership”** has a corresponding meaning.<sup>9</sup>
  - (m) **“Multi-sector Accountability Agreement”** means the Multi-Sector Accountability Agreement dated effective April 1, 2019 between the Corporation and the Erie St. Clair Local Health Integration Network, as amended by the MSAA Amending Agreement dated March 31, 2020, as may be further amended or superseded from time to time.
  - (n) **“Officer”** means an officer of the Corporation, including Chair, Vice-Chair Secretary and Treasurer.<sup>10</sup>
  - (o) **“present”** means participating in a meeting held in accordance with this By-law whether physically, Electronically or in the case of Members’ meetings by proxy.
  - (p) **“Secretary”** means the secretary of the Board.<sup>11</sup>
  - (q) **“Treasurer”** means the treasurer of the Board.<sup>12</sup>
  - (r) **“Vice-Chair”** means the vice-chair of the Board.<sup>13</sup>
2. **Plural.** Words that are in the singular form are deemed to include the plural form and vice versa.
3. **Include, Etc.** Whenever the words “include,” “includes” or “including” (or similar terms)

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7 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(8) and By-law section 49 - both require simultaneous and instantaneous communication in the context of Electronic Board meetings. In this case, given the Membership structure (mirrors Board), By-law section 26 provides the same requirement in the context of Membership meetings.

8 The current definition of “Francophone,” as set out in the November 2017 Ontario Ministry of Health and Long Term Care [Guide to Requirements and Obligations Relating to French Language Health Services](#) is: a person whose mother tongue is French, plus those whose mother tongue is neither French nor English but have a particular knowledge of French as an official language and use French at home

9 Members of a corporation are a parallel to shareholders of a share capital corporation. As a non-share capital corporation, the Corporation has members and not shareholders. Members of the Corporation are in contrast to members of the Board or Directors.

10 Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments (job descriptions). Officers and directors are distinct from one another, although often officers are also directors and in the case of the chair, this is mandated by Ontario [Not-for-Profit Corporations Act, 2010](#) section 42(2).

11 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a secretary but such an appointment is customary and is required by By-law section 57(d).

12 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a treasurer but such an appointment is customary and is required by By-law section 57(c).

13 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a vice-chair but such an appointment is customary and is required by By-law section 57(b).

are used they are deemed to be followed by the words “without limitation.”

4. **Computation of Time.** In computing the date when notice must be given under any provision requiring a specified number of days’ notice of any meeting or other event, the date of giving the notice shall be excluded and the day of the meeting or other event shall be included.
5. **References to Legislation.** Any reference in this By-law to any legislation or regulation shall, unless otherwise expressly stated, be deemed to be a reference to such legislation or regulation as amended, restated or re-enacted from time to time.
6. **Severability.** The invalidity or unenforceability of any provision of this By-law shall not affect the validity or enforceability of the remaining provisions of this By-law.
7. **Footnotes.** The footnotes in this By-law are inserted for non-binding explanatory purposes only. They are not to be considered or taken into account for the purposes of construing or interpreting the provisions of this By-law, nor shall they be used in any way to clarify, modify or explain the effect of any such provisions.

## LEGAL AND POLICY FRAMEWORK

8. **Hierarchy and Precedence.** In order of hierarchy, the legal and policy framework for the Corporation is as follows:
  - (a) Law of the land, including statutory law<sup>14</sup> and common law.<sup>15</sup>
  - (b) Articles.<sup>16</sup>
  - (c) By-laws.<sup>17</sup>
  - (d) Board resolutions / policy.<sup>18</sup>
  - (e) Operational policy.<sup>19</sup>
  - (f) Contracts.<sup>20</sup>In the event of a conflict, the policies at the higher level in the legal framework prevail.<sup>21</sup>

14 Statutory law of particular relevance includes the Canada [Income Tax Act](#) and the Ontario [Not-for-Profit Corporations Act, 2010](#). Statutory laws are available at [CanLII](#).

15 Common law, also sometimes referred to as “judge-made law,” or “caselaw,” is the law that comes from court decisions. Most caselaw is available at [CanLII](#).

16 This is in reference to what is commonly referred to as a charter or constitution – it is the document that brings a corporation into existence. In this case the Corporation was amalgamated by letters patent of amalgamation pursuant to the Ontario [Corporations Act](#) dated December 10, 2009. Relevant portions of the Ontario [Corporations Act](#) were superseded by the Ontario [Not-for-Profit Corporations Act, 2010](#), effective October 19, 2021. Articles of Amendment under the Ontario [Not-for-Profit Corporations Act, 2010](#) were issued March 31, 2023.

17 Ontario [Not-for-Profit Corporations Act, 2010](#) contemplates the passage of by-laws but it is not mandated – if by-laws are not passed within 60 days of incorporation a [standard by-law](#) applies - see section Ontario [Not-for-Profit Corporations Act, 2010](#) section 8(2).

18 Board resolutions / policy refers to the Board’s decisions as captured in resolutions. Board resolutions of an enduring nature are often captured in a board policy manual.

19 Operational policy refers to the policies, guidelines, rules, protocols, practices etc. that govern the day to day ordinary business of the Corporation. Generally operational policy is established by the Executive Director within any parameters established by the board.

20 Sometimes contracts with third parties can bind an organization to establishing certain policy. This is often the case with funding, grant, donor and accreditation program agreements.

21 The hierarchy is set by law and therefore it is not possible to change the hierarchy by amending this provision.

9. **Purposes.** The purposes of the Corporation are as set out in the Articles.<sup>22</sup>
10. **Vision and Mission.** Any vision<sup>23</sup> and mission<sup>24</sup> of the Corporation shall be within the scope of the purposes of the Corporation.
11. **French Language Services.** The Corporation is committed to the delivery of French language services. To reflect such commitment, the Corporation shall establish and implement a French languages services policy which complies with requirements of an “identified” health services provider within the meaning of the Multi-Sector Accountability Agreement and the Board and Executive Director shall be accountable to ensure proper implementation and adherence to such policy.<sup>25</sup>

## REGISTERED OFFICE

12. **Registered Office.** The registered office of the Corporation shall be in Ontario at the location stated in the Articles, subject to a change of the stated municipality by special resolution<sup>26</sup> and subject to a change of the location within the stated municipality by way

22 The purposes are as follows: “(a) To establish, maintain and operate a community health centre by providing: comprehensive primary care and health promotion programs; illness prevention; community capacity building and service integration; support; counseling; education and training; and spiritual services with an emphasis on priority populations; (b) To promote community health and wellness; (c) To support and undertake research and training on matters relating to community health and wellness; (d) To understand and participate in the development of projects, programs, products and services relevant to community health and wellness; (e) To advance education in the fields of community health and wellness by providing scholarships to needy individuals studying and researching in those fields; (f) To establish, maintain and operate preschool facilities and programs for children on a not for profit basis; (g) To liaise, cooperate and collaborate with other health and wellness related organizations, including charitable, educational and government agencies to optimize community health and wellness; (h) To establish, maintain and operate training facilities which will be open for therapists, counselors and teachers wishing to learn or sharpen skills in various fields of learning and/or teaching; (i) To establish and maintain a library or collection of books or other publications dealing with health and mental care; and (j) To receive and maintain a fund or funds and to apply all or part of the principal and income therefrom from time to time to any charity registered under the Income Tax Act (Canada) which benefits directly or indirectly the premises, facilities, programs, services, research, initiatives, operations, training, human resources and/or any other aspect from time to time of the Windsor Essex Community Health Centre.

23 The Corporation’s vision is: Optimal health and well-being for our community.

24 The Corporation’s mission is: Designing and delivering an accessible, inclusive and collaborative approach to providing primary care, illness prevention, and health promotion.

25 The Corporation is “Identified” within the meaning of the Multi-Sector Accountability Agreement, which requires the Corporation to: (a) work towards applying the principles of Active Offer in the provision of services; (b) provide services to the public in French in accordance with its existing French language services capacity; (c) develop, and provide to the LHIN upon request from time to time, a plan to become Designated by the date agreed to by the HSP and the LHIN; (d) continuously work towards improving its capacity to provide services in French and toward becoming Designated within the time frame agreed to by the parties; (e) provide a report to the LHIN that outlines progress in its capacity to provide services in French and toward becoming Designated; (f) annually, provide a report to the LHIN that outlines how it addresses the needs of its local Francophone community; and (g) collect and submit to the LHIN, as requested by the LHIN from time to time, French language services data. Related reporting requirements in turn require the Corporation’s by-laws to include provisions stating the Corporation’s commitment and accountability regarding the delivery of French language services and reference its related policy – see FLS Report – Description Requirements, sections 4.1.1, 4.1.2 and 4.1.4.

26 Ontario [\*Not-for-Profit Corporations Act, 2010\*](#) defines “special resolution” in essence to be a resolution passed by a 2/3rds vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote.

of Board resolution.<sup>27</sup>

## FINANCIAL MATTERS

13. **Year End.** The fiscal year of the Corporation shall start on April 1<sup>st</sup> of each year and end on March 31<sup>st</sup>.<sup>28</sup>
14. **Financial Statements.** A copy of the annual financial statements of the Corporation and any related audit or review engagement report shall be given to each Member who has informed the Corporation that they wish to receive the same, at least 21 days before the annual general meeting or as otherwise prescribed under the Ontario [Not-for-Profit Corporations Act, 2010](#).<sup>29</sup>
15. **Borrowing.** The Board may from time to time:<sup>30</sup>
- (a) borrow money on the credit of the Corporation;
  - (b) issue, reissue, sell or pledge debt obligations of the Corporation;
  - (c) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and
  - (d) mortgage, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation,
- provided that:
- (e) the power to grant security shall be subject to any trust obligations<sup>31</sup> and third-party contractual requirements.<sup>32</sup>

## SIGNING DOCUMENTS

16. **Who Can Sign.** Subject to By-law section 17, Documents requiring the signature of the Corporation may be signed by any 2 Directors and all Documents so signed shall be binding upon the Corporation, without any further authorization or formality.<sup>33</sup>
17. **Other Authorization for Who Can Sign.** The Board may at any time direct the manner in which and the person or persons by whom any particular Document or any type of Document may or shall be signed.
18. **Signatures.** Subject to the requirements of the Document, signatures by authorized

<sup>27</sup> The current registered office is 1595 Ouellette Avenue, Windsor, Ontario, N8X 1K5. See Ontario [Not-for-Profit Corporations Act, 2010](#) section 14 for further detail with respect to changing registered office location.

<sup>28</sup> Note Canada Revenue Agency approval is required to change year end. Details with respect to changing year end are available at: [Change organization's fiscal period end - Canada.ca](#).

<sup>29</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 84(2).

<sup>30</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 85.

<sup>31</sup> Generally, security interests cannot be granted in relation to any donor restricted property, as generally such property can only be used according to the donor's restrictions.

<sup>32</sup> It is not uncommon for assets acquired through government funding to be subject to a contractual obligation preventing disposition without the consent of the funder. Granting security interests in such assets can be seen as a disposition, so it is important to consider related contractual obligations.

<sup>33</sup> Note, the authority to approve documents on behalf of the Corporation is distinct from the authority to sign Documents on behalf of the Corporation. When signing Documents, authorized signatories should ensure the Documents have been approved by those having authority to approve such Documents.



signatories, may be handwritten or electronic.

19. **Seal.** The Corporation shall not have a seal.<sup>34</sup>

## NOTICES ETC.

20. **Generally.** Unless otherwise required and subject to By-law section 21, any notice or other communication required to be given under the Ontario [Not-for-Profit Corporations Act, 2010](#), the Articles and/or this By-law by or to a Member, Director, Officer or other person shall be in writing and shall be delivered, mailed or sent by email as follows:
- (a) delivered personally, in which case it will be deemed to have been given on the date delivered;
  - (b) delivered to the person's latest address as recorded in the Corporation's records, in which case it will be deemed to have been given on the date delivered;
  - (c) mailed to the person's address as recorded in the Corporation's records by prepaid mail, in which case it will be deemed to be delivered 5 days after the date of mailing; or
  - (d) sent to the person's latest email address as recorded in the Corporation's records, in which case it will be deemed to be delivered 1 day after the date of transmittal.
21. **Waiver of Notice.** Notice may be waived or the time for giving the notice may be abridged at any time with the consent of the person entitled thereto.

## MEMBERSHIP

22. **Membership.** The Membership of the Corporation (in contrast to membership on the Board) shall consist *ex officio*,<sup>35</sup> of those individuals who are from time-to-time Directors.
23. **Termination of Membership.** Membership is not transferable<sup>36</sup> and terminates upon the individual ceasing for whatever reason to be a Director.<sup>37</sup> In such event, Membership shall be deemed to have been terminated on the date that the individual ceased to be a Director.

## MEMBERS' MEETINGS

24. **Calling Members Meetings.** Calling of Members meetings shall be subject to and in accordance with the following:

<sup>34</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 13.

<sup>35</sup> Ontario [Not-for-Profit Corporations Act, 2010](#) section 48(2) permits ex officio membership to be provided for in the by-laws.

<sup>36</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 50.

<sup>37</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 48(8).

- (a) **Annual General Meetings.** The annual general meeting of the Members shall be held not more than 15 months after the holding of the last preceding annual general meeting.<sup>38</sup>
  - (b) **Special General Meetings.** Members meetings may otherwise be called by the Chair, the Board,<sup>39</sup> or pursuant to a requisition by the Members in accordance with the Ontario [Not-for-Profit Corporations Act, 2010](#).<sup>40</sup>
25. **Notice.** Notice of Members' meetings shall be subject to and in accordance with the following:
- (a) **Responsibility.** The Secretary shall give or cause to be given any required notice.
  - (b) **Amount of Notice.** Subject to By-law section 25(e), at least 10 days' notice but not more than 50 days' notice shall be given.<sup>41</sup>
  - (c) **Content.** Notice shall include:
    - (i) date and time of the meeting;<sup>42</sup>
    - (ii) place of the meeting,<sup>43</sup> unless it is to be held wholly Electronically;
    - (iii) instructions for attending and participating Electronically, if the meeting is to be held in whole or in part Electronically;<sup>44</sup>
    - (iv) an agenda describing the nature of the business to be transacted in sufficient detail to allow a Member to make a reasoned judgment on the business;<sup>45</sup>
    - (v) the text of any special resolutions<sup>46</sup> to be submitted to the meeting;<sup>47</sup>
    - (vi) any proposals properly submitted by Members (see By-law section 28(a)(i)), along with, if requested by such Members, any related supporting statements and their names and addresses, provided that:
      - the same are submitted at least 60 days prior to the meeting;<sup>48</sup> and
      - the Board has not refused inclusion;<sup>49</sup>
    - (vii) an acceptable form of proxy;<sup>50</sup> and
    - (viii) the time fixed, if any, for the deposit of any proxy with the Corporation.<sup>51</sup>

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38 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 52(1) relating to timing of annual general meetings.

39 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 52(2).

40 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 60 detailing how Members can requisition meetings.

41 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1).

42 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1).

43 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 55(1) and 55(1.1).

44 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1.2).

45 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(8).

46 Ontario [Not-for-Profit Corporations Act, 2010](#) defines "special resolution" to in essence be a resolution passed by a 2/3rds vote at a properly constituted members' meeting or alternatively a written resolution signed by 100% of the members entitled to vote. Certain matters require special resolution, such as for example, amending the Articles.

47 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(8).

48 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(6)(a).

49 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(6) for a list of reasons when a board can refuse to include a proposal in a notice of meeting.

50 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 65.

51 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(4). Also see By-law section 28(d) regarding the time limit for proxy deposit.



- (d) **To Whom Given.** Notice shall be given to:
- (i) each Member, who is on record<sup>52</sup> as being a Member, as at the end of the day immediately before the day on which notice is given;<sup>53</sup>
  - (ii) each Director;<sup>54</sup>
  - (iii) each Officer;
  - (iv) the auditor or person appointed to conduct a review engagement, if there has been such an appointment;<sup>55</sup> and
  - (v) the Executive Director.
- For greater clarity, if a person is entitled to notice in more than one capacity, notice need only be provided once.
- (e) **Exceptions for Notice.**
- (i) **Adjourned Meetings.** For Members meetings that are adjourned, no notice is necessary, other than announcement at the meeting that is adjourned, unless the adjournment or cumulative adjournments are for 30 days or more.<sup>56</sup>
  - (ii) **Waiver.** Members' meetings may be held without notice if all the Members entitled to notice have waived the notice, provided that attendance of any such person at a Members' meeting shall constitute a waiver of notice of the meeting except where such person attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or held.<sup>57</sup>
- (f) **Manner.** Notice shall be given in the manner specified in By-law section 20.
- (g) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.
- (h) **Errors or Omissions.** No error or omission in giving notice for a meeting of Members shall invalidate such meeting or invalidate or make void any proceedings taken or had at a meeting of Members.

26. **Place and Means of Meetings.** Members' meetings shall be held at a physical place in Ontario,<sup>58</sup> Electronically<sup>59</sup> or some combination thereof, as may from time to time be determined by the Board.<sup>60</sup> If any person who is entitled to participate Electronically (see By-law section 28) provides at least 2 days' notice to the Corporation that they wish to so participate, the meeting shall be held Electronically to the extent necessary to accommodate such wish.<sup>61</sup> Any Member participating in the meeting Electronically shall

52 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 54 for details regarding record date.

53 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1)(a).

54 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1)(b).

55 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1)(c).

56 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1).

57 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(3).

58 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1).

59 Ontario [Not-for-Profit Corporations Act, 2010](#) section 57(5).

60 Ontario [Not-for-Profit Corporations Act, 2010](#) section 53(5).

61 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 53(4).

be deemed to be present at the meeting.<sup>62</sup>

27. **Chair of Meeting.** The Chair shall chair Members' meetings or if absent, unable or unwilling for more than 15 minutes from the time fixed for the meeting, the Vice-Chair and in the absence, inability or unwillingness of both the Chair and Vice-Chair for more than 15 minutes from the time fixed for the meeting, the Members present shall by ordinary resolution<sup>63</sup> choose any Member present and who is willing to act as chair.
28. **Attendance and Participation.** The below individuals shall be entitled to attend Members meetings and to the extent indicated below participate thereat as follows:
- (a) **Members.** Members shall be entitled to attend all Members' meetings in person or Electronically and shall be entitled to participate thereat as follows:
    - (i) making a proposal, provided that: such proposal is submitted to the Board at least 60 days in advance of the meeting;<sup>64</sup> complies with the requirements of the Ontario [Not-for-Profit Corporations Act, 2010](#);<sup>65</sup> and has not been refused by the Board for inclusion with the notice of meeting.<sup>66</sup>
    - (ii) being heard verbally on any matter with respect to which a proposal could have been made;<sup>67</sup>
    - (iii) debating; and
    - (iv) voting.
  - (b) **Directors.** Directors shall be entitled to attend all Members' meetings in person or Electronically. Directors shall not be entitled to participate at Members meetings by making a proposal, debating or voting but shall be entitled to participate by being heard (verbally and/or in writing).
  - (c) **Officers.** Officers shall be entitled to attend all Members' meetings in person or Electronically. Officers shall not be entitled to participate at Members meetings by making a proposal, debating or voting but shall be entitled to participate by being heard (verbally and/or in writing) on any matter that concerns an Officer's duties.
  - (d) **Executive Director.** The Executive Director shall be entitled to attend all Members meetings in person or Electronically. The Executive Director shall not be entitled to participate at Members meetings by making a proposal, debating or voting but shall be entitled to participate by being heard (verbally and/or in writing) on any matter that concerns the Executive Director's duties.

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62 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 53(7).

63 Ontario [Not-for-Profit Corporations Act, 2010](#) defines "ordinary resolution" in essence to be a resolution passed by a majority vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote.

64 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(6)(a).

65 Ontario [Not-for-Profit Corporations Act, 2010](#) section 56 and [Ontario Regulation 395/21](#) outline a number of requirements for proposals and related supporting statements, including for example, limiting the combined words and characters to 500.

66 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(6) for a list of reasons when a board can refuse to allow a proposal and related information in a notice of meeting.

67 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(1)(b).

- (e) **Auditor/Person Undertaking Review Engagement.** The auditor or person undertaking a review engagements, if one has been appointed, shall be entitled to attend all Members' meetings in person or Electronically. The auditor or person undertaking a review engagement shall not be entitled to participate at Members' meetings by making a proposal, debating or voting, but shall be entitled to participate by being heard (verbally and/or in writing) on any matter that concerns their duties.<sup>68</sup>
- (f) **Invited Guests.** Invited guests may attend Members' meetings on invitation of the Chair, the Board or with the consent of the meeting, per the means (personally or Electronically) permitted by the invitation. Invited guests shall not have any participation entitlements, except as may be directed by the chair of the meeting.

For greater clarity, if an individual attends a meeting of Members in more than one capacity, such individual shall be entitled to participate in all capacities as outlined above.

29. **Transaction of Business.** Transaction of business at Members' meetings shall be subject to and in accordance with the following:

- (a) **Quorum.** Quorum shall be a majority of the Members.<sup>69</sup> No business shall be transacted in the absence of quorum,<sup>70</sup> except to adjourn a meeting to a fixed time and place, when there is no quorum at the opening of a meeting.<sup>71</sup>
- (a) **Business.** The business shall include the following:

(i) Annual General Meeting		
(1)	Call to order.	
(2)	Formalities.	Notice check (see By-law section 25 for notice requirements).
		Attendance check.
		Quorum check (see By-law section 29(a) for quorum requirements).
(3)	Approval of invited guests, if approval required (see By-law section 28(f)).	
(4)	Approval of the agenda.	
(5)	Minutes of any previous Members' meetings, not previously presented, shall be presented.	
(6)	The financial statements of the Corporation as approved by the Board shall be presented. <sup>72</sup>	
(7)	Any audit or review engagement report shall be presented. <sup>73</sup>	

68 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(1)(c) and section 75(1)

69 Note there is no statutory requirement for quorum for Members' meetings. In the absence of any quorum provision in the by-laws, quorum is a majority per Ontario [Not-for-Profit Corporations Act, 2010](#) section 57(1). Ontario [Not-for-Profit Corporations Act, 2010](#) section 57(2) does not require quorum to be present throughout a meeting however this provision imposes such a requirement.

70 Ontario [Not-for-Profit Corporations Act, 2010](#) section 57(2) does not require quorum to be present throughout a meeting, however this provision imposes such a requirement by stating that there must be quorum for the transaction of any business.

71 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 57(3).

72 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 55(7) and 84(1)(a).

73 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(7)2 and 84(1)(b).

(8)	Consideration of any proposals included with the notice of meeting.
(9)	Consideration of any matters raised by Members in connection with which a proposal could have been made. <sup>74</sup>
(10)	If an audit or review engagement is required <sup>75</sup> or otherwise desired, auditors or person to conduct a review engagement, as applicable, shall be appointed for the ensuing year. <sup>76</sup> Otherwise, consent for exemption for financial review shall be given. <sup>77</sup>
(11)	Election of Directors for the ensuing year. <sup>78</sup>
(12)	Closing

(ii) Special General Meetings		
(1)	Call to order.	
(2)	Formalities.	Notice check (see By-law section 25 for notice requirements).
		Attendance check.
		Quorum check (see By-law section 29(a) for quorum requirements).
(3)	Approval of invited guests, if approval required (see By-law section 28(f)).	
(4)	Approval of agenda.	
(5)	Business outlined in the notice of meeting.	
(6)	Closing	

- (b) **Debate and Decorum.** Debate and decorum shall be subject to and in accordance with the following:
- (i) No attendee entitled to speak shall do so:
    - 1. Unless recognized by the chair of the meeting.
    - 2. To a question at any one time for longer than 3 minutes.
    - 3. If to do so would interrupt an individual who is speaking, except to raise a question of privilege or point of order.
  - (ii) Attendees shall obey any proper direction of the chair of the meeting.
  - (iii) Attendees who disturb the proper conduct of the proceedings or otherwise conduct themselves in a disorderly or unseemly manner may be ordered by the chair of the meeting to leave the meeting and in such event the attendee shall leave as directed by the chair of the meeting.
- (c) **Voting.** Voting shall be subject to and in accordance with the following:
- (i) Members shall each have 1 vote<sup>79</sup> on each question arising.
  - (ii) In the event of a tie, the chair of the meeting shall not have a 2<sup>nd</sup> or casting vote.
  - (iii) Unless otherwise required, every question shall be decided by ordinary resolution.<sup>80</sup>

<sup>74</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 56(1).

<sup>75</sup> Ontario [Not-for-Profit Corporations Act, 2010](#) section 68 details financial review requirements.

<sup>76</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(7)3.

<sup>77</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 76 for when and how consent for exemption from audit or review engagement may be given.

<sup>78</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 55(7).

<sup>79</sup> See Ontario [Not-for-Profit Corporations Act, 2010](#) section 48(6).

<sup>80</sup> Ontario [Not-for-Profit Corporations Act, 2010](#) defines "ordinary resolution" in essence to be a resolution passed by a majority vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote. Certain decisions are required by the Ontario [Not-for-Profit](#)

- (iv) Unless otherwise required, every question shall be decided in the first instance by a show of hands.<sup>81</sup> A ballot may be demanded by any Member, either before or after a show of hands.<sup>82</sup> If a ballot be demanded, it shall be taken in such manner as required by law and otherwise as the chair of the meeting shall direct.<sup>83</sup>
  - (v) Unless a ballot is demanded, a declaration by the chair of the meeting that a resolution has been carried or not carried and an entry to that effect in the minutes of the Corporation shall be admissible in evidence as *prima facie* proof of the fact, without proof of the number or proportion of the votes accorded in favour of or against such resolution.<sup>84</sup>
30. **Proxies.** Every Member may, by means of a proxy<sup>85</sup> appoint a person who need not be a Member,<sup>86</sup> as nominee for the Member, to attend and act at the meeting in the manner, to the extent, and with the power conferred by the proxy, subject to and in accordance with the following:
- (a) **In Writing and Signed.** A proxy shall be in writing and shall be signed by the Member or the attorney of the Member.<sup>87</sup>
  - (b) **Validity.** A proxy is valid only for the meeting it is given and any meeting that continues such meeting, in the event of adjournment.<sup>88</sup>
  - (c) **Form.** Subject to the requirements of the Ontario [Not-for-Profit Corporations Act, 2010](#),<sup>89</sup> a proxy may be in the form included with the notice of meeting (see By-law section 25(c)(v)) or such other form as the chair of the meeting may from time to time accept as sufficient.
  - (d) **Deposit.** Proxies shall be deposited with the Secretary at least 48 hours, excluding Saturdays and holidays, before the time of the relevant Members' meeting.<sup>90</sup>
31. **Records.** The Secretary shall keep or cause to be kept minutes of all Members' meetings, which shall be kept as part of the Corporation's records.<sup>91</sup>

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[Corporations Act, 2010](#) to be passed by extraordinary resolution (80% vote) such as for example a consent to exemption from financial review requirements and special resolution (2/3rds vote), such as, for example amending the Articles.

81 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 58(1)

82 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 58(1) and 58(2).

83 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 67.

84 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 59(4).

85 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(1).

86 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(1.2).

87 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(2).

88 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(5).

89 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(3) and [Ontario Regulation 395/21](#) for proxy form requirements.

90 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 64(4).

91 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 92(1)(b).

## IN LIEU OF MEMBERS' MEETING

32. **Written Resolutions.** Written resolutions may be passed in lieu of Members' meetings, subject to and in accordance with the following:
- (a) **All Members Entitled to Vote Must Sign.** All Members entitled to vote must sign the written resolution.<sup>92</sup>
  - (b) **Signatures.** Signatures on written resolutions may be handwritten, electronic<sup>93</sup>, and/or scanned.<sup>94</sup>
  - (c) **Counterparts.** Written resolutions may be signed in any number of counterparts, and each counterpart shall be deemed an original and taken together, all counterparts shall be deemed to constitute one and the same written resolution.
  - (d) **Delivery.** Electronic delivery (including by email transmission or transmission over an electronic signature platform) of a written resolution is as valid, enforceable and binding as if delivered in person.
  - (e) **Applicable Law.** Written resolutions shall be subject to the laws of Ontario and the federal laws of Canada applicable therein regardless of the location of the signor Director at the time of signing the written resolution.
33. **Records.** A copy of every written resolution of the Members shall be kept with the minutes of meetings of Members<sup>95</sup> and kept as part of the Corporation's records.<sup>96</sup>

## BOARD

34. **Board is Accountable for Governance.** The Board shall manage or supervise the management of the activities and affairs of the Corporation, subject to any applicable law, the Articles and this By-law.<sup>97</sup>
35. **Qualifications.** Each Director shall:

92 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 59(1).

93 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 1 for the definition of "electronic signature."

94 For a related discussion see: [Electronic Signatures in Ontario Law](#) and [Law and Practice of Electronic Signatures](#).

95 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 59(3).

96 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 92(1)(c).

97 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 21. The tasks that a board must undertake to fulfill its governance responsibility have evolved over time and while there are generally recognized themes, they are variously described and not entirely aligned. One conception is that, in addition to establishing a governance framework (structures, functions and processes) for decision making, a board should undertake the following: adopt a strategic plan including vision and mission; ensure a risk management framework is developed and maintained; develop and implement a code of conduct; recruit, select and appoint an administrative head; ensure a stakeholder engagement framework is developed and maintained; ensure an accountability framework is developed and maintained including performance management of the board, the administrative head and organization; and ensure a transparency framework is developed and maintained that contributes to accountability.



- (a) be an individual (in contrast to artificial person e.g. corporation);<sup>98</sup>
- (b) be at least 18 years of age;<sup>99</sup>
- (c) not be an individual who has been found under the Ontario [Substitute Decisions Act, 1992](#) or under the Ontario [Mental Health Act](#) to be incapable of managing property;<sup>100</sup>
- (d) not be an individual who has been found to be incapable by any court in Canada or elsewhere;<sup>101</sup>
- (e) not have the status of bankrupt;<sup>102</sup>
- (f) consent to being a Director at the time of or within 10 days of election or otherwise in accordance with or as permitted by the Ontario [Not-for-Profit Corporations Act, 2010](#);<sup>103</sup>
- (g) be or upon election, become a Member;<sup>104</sup>
- (h) not be an "ineligible individual" within the meaning of the Canada [Income Tax Act](#);<sup>105</sup>
- (i) not have been convicted of a *Criminal Code* offence for which a pardon has not been granted; and
- (j) not be an individual or an "**Associate**" of an individual or a board member, shareholder, member or employee of any person who:
  - (i) is under contract with the Corporation;
  - (ii) has been under contract with the Corporation in the previous year; or
  - (iii) intends to be under contract with the Corporation in the future.

"Associate" as used above includes parents, siblings, children, spouse, common-law partner or other individual (such as a business partner) with a formal relationship to the subject individual.

36. **Board Composition.** Board compositions shall be subject to and in accordance with the following:

- (a) **Number of Directors.** The Board shall be comprised of the number of Directors

98 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(1)1.

99 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(1)2.

100 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(1)3.

101 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(1)4.

102 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(1)5.

103 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 24(8) but also see sections 24(9) and 24(10).

104 By-law section 21 provides automatic membership to anyone who is elected a Director. Note Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(2) says directors are not required to be members unless the by-laws provide otherwise. The Membership structure in this case requires Directors to be Members.

105 See Canada [Income Tax Act](#) section 149.1(1) for full details regarding the meaning of "ineligible individual." In general terms, an individual is ineligible if he or she:

- has been convicted of an offence
  - related to financial dishonesty
  - relevant to the operation of the organization
- was connected to an organization whose registration was revoked for a serious breach of the requirements for registration. The connection was as:
  - a director, trustee, officer, or like official
  - an individual in a position of management or control
  - a promoter of a tax shelter, and participating in that tax shelter caused the revocation of an organization's registration

For a further discussion on the topic of "ineligible individuals" see: [Ineligible Individuals ... And The Problem Gets Worse.](#)

stated in its Articles,<sup>106</sup> provided that if the Articles provide for a minimum<sup>107</sup> and maximum number of Directors, the number of Directors on the Board shall be determined from time to time by special resolution<sup>108</sup> or alternatively if the Board has been empowered by special resolution to determine the number, by such number as the Board determines from time to time,<sup>109</sup> providing that any decrease in the number shall not shorten the term of any incumbent Director.<sup>110</sup>

- (b) At least 1 of the Directors shall be Francophone, unless there are no suitable candidates.<sup>111</sup>
37. **Election.** Subject to By-law section 40, Directors shall be elected by the Members at the annual general meeting.
38. **Term.** Subject to early removal and the due election of a successor, each Director shall be elected for 1 to 3 years, staggered so that the terms of no more than 1/3<sup>rd</sup> of the Directors' come to an end at each annual general meeting.
39. **Limit of Terms.** Upon retirement, Directors, if qualified, are eligible for re-election providing that no Director shall serve as such for more than 6 continuous years without taking at least 1 year off, subject to the time being extended:
- (a) In the case of a Director who holds an Officers' position, in order to allow for the succession of Officers according to any Board policy from time to time in place.
  - (b) In the case of a Director who is filling a vacancy, for the amount of time attributed to filling that specific vacancy.
40. **Vacation of Office.** A Director ceases to hold office, if any one or more of the following apply:
- (a) **Removal by Membership.** A resolution to remove the Director is passed by the Members at a general meeting of Members for which notice specifying the intention to pass such resolution has been given and any statement of the subject Director giving reasons opposing removal has been circulated to the

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106 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 22(3).

107 Ontario [Not-for-Profit Corporations Act, 2010](#) section 22(1) requires at least 3 directors.

108 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 22(2). Ontario [Not-for-Profit Corporations Act, 2010](#) defines "special resolution" in essence to be a resolution passed by a 2/3rds vote at a properly constituted members meeting or alternatively a written resolution signed by 100% of the members entitled to vote. On March 22, 2023 a special resolution was passed fixing the number of directors at 8.

109 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 22(2). On March 22, 2023 a special resolution was passed authorizing the Board to determine the number of directors from time to time.

110 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 21.

111 The Corporation is "Identified" within the meaning of the Multi-Sector Accountability Agreement, which requires the Corporation to: (a) work towards applying the principles of Active Offer in the provision of services; (b) provide services to the public in French in accordance with its existing French language services capacity; (c) develop, and provide to the LHIN upon request from time to time, a plan to become Designated by the date agreed to by the HSP and the LHIN; (d) continuously work towards improving its capacity to provide services in French and toward becoming Designated within the time frame agreed to by the parties; (e) provide a report to the LHIN that outlines progress in its capacity to provide services in French and toward becoming Designated; (f) annually, provide a report to the LHIN that outlines how it addresses the needs of its local Francophone community; and (g) collect and submit to the LHIN, as requested by the LHIN from time to time, French language services data. Related reporting requirements in turn, require the Corporation's by-laws to include provisions specifying representation (i.e. number or proportion) of Francophones on the Board - see Description of FLS Reporting Requirements, section 4.1.3.

Members.<sup>112</sup>

- (b) **Resignation.** The Director resigns.<sup>113</sup> Resignation shall be effective when received by the Corporation or when specified in the resignation, whichever is later.<sup>114</sup>
  - (c) **Death.** Upon the death of the Director.<sup>115</sup>
  - (d) **No Longer Qualified.** Upon a Director ceasing to be qualified pursuant to By-law section 33.<sup>116</sup>
41. **Circulation of Reasons for Resignation.** If a Director who resigns, provides a statement giving reasons for resignation, then such statement shall be immediately circulated to the Members.<sup>117</sup>
42. **Filling Vacancies.** Directors' vacancies shall be filled as follows:
- (a) **If Removed by Members.** In the event a vacancy is created by the removal of a Director in accordance By-law section 38(a), then the Members present may (but are not required) to elect any qualified individual in her or his stead for the remainder of her or his term.<sup>118</sup>
  - (b) **Otherwise.** Vacancies may otherwise be filled as follows:
    - (j) **If Quorum Remains.** So long as a quorum of Directors remain in office,<sup>119</sup> and so long as the number of Directors appointed by the Board does not exceed 1/3 of the number of Directors elected at the previous annual general meeting,<sup>120</sup> any vacancy may be filled for the remainder of the term by the Board, if the Board shall see fit to do so. If the Board does not see fit to do so, such vacancies shall be filled at the next annual general meeting at which the Directors for the ensuing year are elected.
    - (ii) **If No Quorum or Minimum Remains.** If a quorum or the minimum number of Directors required by the Articles does not remain, the remaining Directors shall forthwith call a meeting of the Members to fill the vacancy.<sup>121</sup>
43. **No Remuneration.** Directors shall not receive remuneration in any capacity or any direct or indirect profit from the Corporation, provided that Directors may be reimbursed for reasonable expenses incurred by them in the performance of their duties as long as they have complied with any applicable expense reimbursement policies.<sup>122</sup>

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112 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 26(1) 27(1)(b)

113 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 25(1).

114 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 25(2).

115 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 25(1).

116 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 25(1).

117 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 27(2).

118 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 26(3).

119 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 28(1).

120 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 24(7).

121 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 28(2).

122 In the absence of a court order, it used to be that directors of charities could not personally benefit from the

## BOARD MEETINGS

44. **Number of Board Meetings.** The Board shall meet as necessary to fulfil the Board's duties.
45. **Calling of Meetings.**
- (a) **Regular Meetings.** The Board may appoint a day or days in any month or months for regular Board meetings at an hour to be named.
  - (b) **Other.** Subject to the Ontario [Not-for-Profit Corporations Act, 2010](#),<sup>123</sup> Board meetings may be called by the Board or by the Chair.
46. **Notice.** Notice of Board meetings shall be subject to and in accordance with the following:
- (a) **Responsibility.** The Secretary shall give or cause to be given the required notice.
  - (b) **Amount of Notice.** Subject to Ontario [Not-for-Profit Corporations Act, 2010](#),<sup>124</sup> and subject to By-law section 46(e), 2 days' notice shall be given.
  - (c) **Content.** Notice shall include:
    - (i) date and time of the meeting.<sup>125</sup>
    - (ii) place of the meeting, unless it is to be held wholly place of the meeting, unless it is to be held wholly Electronically;<sup>126</sup>
    - (iii) purpose and/or business to be transacted at the meeting, provided that notice shall not be invalidated if it fails to do so, unless such failure is in relation to purposes and/or business required by the Ontario [Not-for-Profit Corporations Act, 2010](#) to be specified.<sup>127</sup>
  - (d) **To Whom Given and Manner.** Notice shall be given to each Director in the manner specified in By-law section 20.
  - (e) **Exceptions for Notice**
    - (i) **Regular Meetings.** If the Board appoints a day or days in any month or months for regular Board meetings at an hour to be named, a copy of any

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charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, [regulations](#) were passed under the Ontario [Charities Accounting Act](#) relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, [Payments to Directors & Connected Persons](#). This provision maintains a strict no-remuneration policy.

123 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 32(2) permitting any incorporator (who are deemed to be directors, to call the first board meeting following incorporation.

124 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 32(2) requiring not less than 5 days' notice for the first Board meeting following incorporation.

125 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 32(2) and 34(1).

126 Ontario [Not-for-Profit Corporations Act, 2010](#) section 32(2) and 34(3.1).

127 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(3) and section 36(2) which lists the purposes/business that must be specified in a notice of meeting.

such resolution of the Board shall be sent to each Director but otherwise no other notice of regular meetings shall be required.

- (ii) **Board Meeting Following Annual General Meeting.** A meeting of the Board may be held, without notice, immediately following the annual general meeting of the Corporation.<sup>128</sup>
  - (iii) **Adjourned Meetings.** No notice need be given for a meeting that continues an adjourned Board meeting if the time and place is announced at the meeting being adjourned.<sup>129</sup>
  - (iv) **Waiver.** No formal notice of a meeting of the Board is necessary if all the Directors are present or if those absent have signified their consent to the meeting being held without notice and in their absence. Further, any Director may at any time waive notice of a Board meeting.
  - (h) **Evidence of Notice.** The statutory declaration of the Secretary that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.
  - (i) **Errors or Omission.** No error or omission in giving notice for a meeting of the Board shall invalidate such meeting or invalidate or make void any proceedings taken or had at a Board meeting.
47. **Cancellation.** In the event that it appears that quorum will not be met, the Chair shall have the authority to cancel any scheduled Board meeting by sending notice to that effect to the Directors.
48. **Place of Meetings.** Board meetings shall be held at the registered office of the Corporation or at such other place as the Board may from time to time determine.<sup>130</sup>
49. **Means of Meetings.** If all the Directors consent, a meeting of Directors or of a committee of Directors may be held in whole or in part Electronically and in such event any Director participating in the meeting Electronically shall be deemed to be present at the meeting.<sup>131</sup>
50. **Attendance and Participation.** The below listed individuals shall be entitled to attend Board meetings and to the extent indicated below, participate thereat as follows:
- (a) **Directors.** Directors shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing),<sup>132</sup> debating and voting in accordance with this By-law, except in the event of a Conflict of Interest, in which case the subject Director shall not participate or otherwise attempt to influence decision making and shall follow such Board

128 It is often customary to open a board meeting immediately after closing the annual general meeting at which the new board is elected, so that the new board can then appoint officers.

129 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(4).

130 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(1).

131 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(6).

132 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 33.

policies from time to time in place. For greater clarity, Directors cannot appoint proxies or alternates to act for them at Board meetings.<sup>133</sup>

- (b) **Officers.** Unless the Board determines otherwise,<sup>134</sup> Officers shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing) but, for greater clarity, shall not be entitled to participate by debating or voting.
- (b) **Executive Director.** Unless the Board determines otherwise,<sup>135</sup> the Executive Director of the Corporation shall be entitled to attend all Board meetings and shall be entitled to participate thereat by being heard (verbally and/or in writing) but, for greater clarity, shall not be entitled to participate by debating or voting.
- (c) **Invited Guests.** Invited guests shall be entitled to attend Board meetings, on invitation of the Chair, the Board or with the consent of the meeting. Invited guests shall not be entitled to participate in Board meetings by voting or debating but shall be entitled to participate by being heard (verbally and/or in writing), if recognized by the chair of the meeting.

For greater clarity, if an individual attends a meeting of the Board in more than one capacity, such individual shall be entitled to participate in all capacities as outlined above.

- 51. **Chair of Meeting.** The Chair shall chair Board meetings or if absent, unable or unwilling, the Vice-Chair and in the absence, inability or unwillingness of both the Chair and Vice-Chair, the Directors present shall by majority resolution choose another Director to act as chair of the meeting.
- 52. **Transaction of Business.** Transaction of business at Board meetings shall be subject to and in accordance with the following:
  - (a) **Quorum.** A majority of the Directors shall form a quorum for the transaction of business by the Board.<sup>136</sup>
  - (b) **Debate and Decorum.**
    - (i) No attendee shall speak:
      - (1) Unless recognized by the chair of the meeting.
      - (2) To a question at any one time for longer than 3 minutes.
      - (3) If to do so would interrupt an attendee who is speaking except to raise a question of privilege or point of order.
    - (ii) Attendees shall conduct themselves with decorum and obey any proper direction of the chair of the meeting.
  - (d) **Voting.** Voting shall be subject to and in accordance with the following:

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133 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 23(5).

134 A matter involving the performance management of the subject Officer is an example of when the Board might decide that the Officer should not attend the related Board meeting.

135 A matter involving the performance management of the Executive Director is an example of when the Board might decide that the Executive Director should not attend the related Board meeting.

136 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 34(2). Note, quorum is calculated on the number of directors a corporation should have – not on the number it actually has.



- (i) Directors shall each have 1 vote on each question arising. For greater clarity the chair of the meeting, if a Director, shall be entitled to 1 vote but shall not have a 2<sup>nd</sup> or casting vote in the event of a tie.
- (ii) Questions arising at Board meetings shall be decided by a majority vote.
- (iii) Every question shall be decided in the first instance by a show of hands. A ballot may be demanded by any Director, either before or after a show of hands. If a ballot be demanded, it shall be taken in such manner as the chair of the meeting shall direct.
- (vi) Unless a ballot be demanded, a declaration by the chair of the meeting that a resolution has been carried or not carried and an entry to that effect in the minutes of the Corporation shall be admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes accorded in favour of or against such resolution.<sup>137</sup>
- (vii) A Director who does not cast a vote (whether present or not at the relevant Board meeting) shall be deemed to have voted in favour of any resolution passed, unless such Director raises their dissent in accordance with the Ontario [Not-for-Profit Corporations Act, 2010](#).<sup>138</sup>
- (viii) Voting by proxy or voting by alternate director shall not be permitted.<sup>139</sup>

53. **Records.** The Secretary shall keep or cause to be kept minutes of all Board meetings, which shall be kept as part of the Corporation's records.<sup>140</sup>

#### IN LIEU OF BOARD MEETINGS

54. **Written Resolutions.** Written resolutions may be passed in lieu of Board meetings, subject to and in accordance with the following:

- (a) **All Directors Entitled to Vote Must Sign.** All Directors entitled to vote must sign the resolution.<sup>141</sup>
- (b) **Signatures.** Signatures on written resolutions may be handwritten, electronic<sup>142</sup> and/or scanned.<sup>143</sup>
- (c) **Counterparts.** Written resolutions may be signed in any number of counterparts. and each counterpart will be deemed an original and taken together, all counterparts will be deemed to constitute one and the same written resolution.
- (d) **Delivery.** Electronic delivery (including by email transmission or transmission over

137 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 38.

138 See Ontario [Not-for-Profit Corporations Act, 2010](#) sections 45(1) and (2)..

139 Many organizations mistakenly believe that directors are permitted to vote by proxy. The By-laws of some organizations actually include a clause that allows directors to appoint a proxyholder to act and vote on their behalf if they are unable to attend a meeting; that is not permitted at law. It is well-established under the common law, that the rules of fiduciary duty applicable to directors prohibit a director from delegating his or her right to vote to another individual. This common law rule has been codified in section 23(f) of the Ontario [Not-for-Profit Corporations Act, 2010](#).

140 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 92(1)(d).

141 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 35(1).

142 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 1 for the definition of "electronic signature."

143 For a related discussion see: [Electronic Signatures in Ontario Law](#) and [Law and Practice of Electronic Signatures](#).

an electronic signature platform) of a written resolution is as valid, enforceable and binding as if delivered in person.

- (e) **Applicable Law.** Written resolutions shall be subject to the laws of Ontario and the federal laws of Canada applicable therein regardless of the location of the signor Director at the time of signing the written resolution.

55. **Records of Written Resolutions.** A copy of every written resolution of the Board shall be kept with the minutes of Board meetings,<sup>144</sup> which shall be kept as part of the Corporation's records.<sup>145</sup>

## COMMITTEES

56. **Managing Committee.** The Board may from time to time appoint from among its number one or more managing committees<sup>146</sup> and delegate to any such committees any powers of the Board, except such powers that cannot be delegated as per the Ontario [Not-for-Profit Corporations Act, 2010](#).<sup>147</sup>
57. **Other Committees.** In addition to any managing committee, the Board may from time to time establish such other committees as it determines necessary for the execution of the Board's responsibilities.
58. **Terms of Reference.** The Board shall establish and amend from time to time as appropriate terms of reference for all committees established by the Board.
59. **Committee Membership.** Membership on committees may, but need not, be restricted to Directors and shall include at least 1 Francophone member,<sup>148</sup> unless there are no suitable Francophone candidates.
60. **Dissolution.** The Board may dissolve any committee at any time.

144 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 35(2).

145 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 92(1)(d).

146 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 36(1).

147 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 36(2) providing that the following powers cannot be delegated: submit to the members any question or matter requiring the approval of the members; fill a vacancy among the directors or in the position of auditor or of a person appointed to conduct a review engagement of the corporation; appoint additional directors; issue debt obligations except as authorized by the directors; approve the Corporation's annual financial statements; adopt or repeal by-laws; and/or establish contributions to be made or dues to be paid by the members.

148 The Corporation is "Identified" within the meaning of the Multi-Sector Accountability Agreement, which requires the Corporation to: (a) work towards applying the principles of Active Offer in the provision of services; (b) provide services to the public in French in accordance with its existing French language services capacity; (c) develop, and provide to the LHIN upon request from time to time, a plan to become Designated by the date agreed to by the HSP and the LHIN; (d) continuously work towards improving its capacity to provide services in French and toward becoming Designated within the time frame agreed to by the parties; (e) provide a report to the LHIN that outlines progress in its capacity to provide services in French and toward becoming Designated; (f) annually, provide a report to the LHIN that outlines how it addresses the needs of its local Francophone community; and (g) collect and submit to the LHIN, as requested by the LHIN from time to time, French language services data. Related reporting requirements in turn, require the Corporation's by-laws to include provisions specifying representation (i.e. number or proportion) of Francophones on board committees - see Description of FLS Reporting Requirements, section 4.1.3.

## OFFICERS

61. **Appointment of Officers.** The Board shall appoint Officers<sup>149</sup> as follows:
- (a) **Chair.** A Chair from among the Directors.<sup>150</sup>
  - (b) **Vice-Chair.** A Vice-Chair from among the Directors.<sup>151</sup>
  - (c) **Treasurer.** A Treasurer from among the Directors.<sup>152</sup>
  - (d) **Secretary.** A Secretary, who need not be a Director.<sup>153</sup>
  - (e) **Other Officers.** Such other officers as the Board may from time to time determine.

An individual may hold more than 1 office, except for the offices of Chair and Vice-Chair.<sup>154</sup>

62. **Job Descriptions.** The Board shall establish and amend from time to time as appropriate job descriptions for all offices appointed.
63. **Removal.** Officers shall be subject to removal by resolution of the Board at any time for any reason or not reason whatsoever.
64. **Remuneration.** Officers who are also Directors shall not receive remuneration or profit from their positions as such.<sup>155</sup>

## PROTECTION AND INDEMNITY

65. **No Liability.** No Director, Officer or committee member of the Corporation is liable for the acts, neglects or defaults of any other Director, Officer, committee member or employee of the Corporation or for joining in any receipt or for any loss, damage or

149 Officers are appointed to facilitate the work of the Board in accordance with the terms of their appointments. Officers and directors are distinct from one another, although often officers are also directors.

150 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 42(2).

151 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a vice-chair but such an appointment is common and it is required by this provision.

152 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a treasurer but such an appointment is common and it is required by this provision.

153 Ontario [Not-for-Profit Corporations Act, 2010](#) does not require the appointment of a secretary but contemplates one and such an appointment is common and is required by this provision. Often organizations find it convenient to appoint the executive director as secretary because such individual often performs many of the typical functions of such office.

154 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 42(c).

155 In the absence of a court order, it used to be that directors of charities could not personally benefit from the charity. This extended to being paid as an employee or in any other capacity or having an interest in a contract. Effective April 1, 2018, [regulations](#) were passed under the Ontario [Charities Accounting Act](#) relaxing these rules but only to a limited extent. For details see, Ontario Ministry of the Attorney General publication, [Payments to Directors & Connected Persons](#).

expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by resolution of the Board or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the money of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or Corporation with whom or which any moneys, securities or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of his or her respective office or trust provided that they have:

- (a) complied with the Ontario [Not-for-Profit Corporations Act, 2010](#) and the Articles and By-laws; and
- (b) exercised their powers and discharged their duties in accordance with the Ontario [Not-for-Profit Corporations Act, 2010](#).

66. **Indemnification.** Every Director, Officer, former Director or Officer or individual who acts or has acted at the Corporation's request as a director or officer, or in a similar capacity, or another entity, shall be indemnified by the Corporation against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individual is involved because of that association with the Corporation or other entity, provided that:
- (a) The individual acted honestly and in good faith<sup>156</sup> with a view to the best interests of the Corporation or other entity, as the case may be.<sup>157</sup>
  - (b) If the matter is a criminal or administrative proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.<sup>158</sup>

## BY-LAW AMENDMENTS

67. **By-laws.** Any amendments to this By-law shall be undertaken in accordance with the Ontario [Not-for-Profit Corporations Act, 2010](#).<sup>159</sup>

156 Ontario [Charities Accounting Act Regulation 4/01](#) section 2 prohibits indemnification for liability that relates to a failure to act honestly or in good faith in the performance of duties.

157 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 46(3)(a).

158 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 46(3)(b).

159 See Ontario [Not-for-Profit Corporations Act, 2010](#) section 17.

<b>REPEAL OF PRIOR BY-LAWS</b>
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68. **Repeal.** Subject to By-law section 69, all prior by-laws of the Corporation are repealed.

69. **Proviso.** The repeal of prior by-laws shall not impair, in any way, the validity of any act.

**Passed by the Board: January 24, 2024**

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**Justine Taylor – Chair**

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**Clara Howitt – Secretary**

**Unanimously approved, ratified, sanctioned and confirmed by the Members of the Corporation: January 24, 2024**

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**Justine Taylor – Chair**

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**Clara Howitt – Secretary**