

CONSTITUTION
AND
BY-LAWS
OF
LOCAL #5138

**THE HEALTH PROFESSIONALS AND
ALLIED EMPLOYEES**
AFT/AFL-CIO

**Ratified by membership of Local #5138
July 18, 2011**

Local 5138
CONSTITUTION & BYLAWS

ARTICLE I. NAME

The name of this organization will be the **Health Professionals and Allied Employees, AFT/AFL-CIO, Local 5138**.

ARTICLE II. OBJECTIVES

The objectives of this organization will be as follows:

- A. To provide representation for all its members to bargain collectively with respect to wages, hours and working conditions of employment, to negotiate written agreements with employers relating thereto and to achieve benefits and working conditions at all levels commensurate with the skills and expertise required of its members.
- B. To seek appropriate recognition of the skills and training required of its members in all specialized professional and allied occupations and to formulate and adopt such ethical practices and personnel requirements to elevate the status of all of its members.
- C. To achieve an optimal working environment through a more satisfied membership.
- D. To maintain and improve employment standards related to members and to critically examine and evaluate all new developments relating to their professions and all legislation, which may have an effect upon the membership.
- E. To enable members to speak with a common voice on matters pertaining to their professional and common interests.
- F. To engage in research and educational activities to promote a better understanding and advancement of this organization.
- G. To foster and develop harmonious relations with other labor organizations.
- H. To promote the health, wealth and safety of all members and to take such action as may be necessary to protect the interest of the organization and each of its members and affiliates.
- I. To ensure equal treatment for the membership without regard to race, religion, creed, gender, color, sexual orientation, nationality, or age; and to protect the membership from discrimination in these areas.
- J. To develop an effective channel of communication between the employer and our members.
- K. To engage in all other lawful and incidental activities and to take such other action as will be necessary to effectuate the aforesaid objectives of this organization.

ARTICLE III. JURISDICTION

The jurisdiction of Local 5138 is the Health Professionals and Allied Employees at Southern Ocean County Hospital.

ARTICLE IV. MEMBERSHIP

Section 1. Qualifications

- A. All hospital professionals and allied employees and any other employee in the health care field whose membership is not specifically prohibited by the Constitution and By-Laws of this organization shall be eligible for membership so long as they agree to abide by the Constitution and By-Laws. No person will be denied membership on the basis of race, creed, color, sex, age, marital status, national origin or religion.

B. All other groups who wish membership with HPAE may apply, in writing, to the HPAE State Executive Council. This membership application may be subject to a membership vote for acceptance.

Section 2. Dues

All members shall pay an initiation fee and dues as set by the State Federation to the State Federation as determined by State Constitution and By-Laws.

Section 3. Assessments

A per capita assessment, in addition to dues, may be levied upon the membership, if the amount and method of payment of such assessment has been approved:

- A. By a majority vote of its members in good standing, present at a regular or special meeting, after reasonable notice of the intention to vote upon such a question.
- B. By a majority vote of members in good standing in a membership referendum conducted by secret ballot.
- C. When an assessment is proposed by the State Executive Council or by action at a meeting of a local, a notice shall be mailed to the members in good standing at least two (2) weeks in advance of the secret ballot vote on the issue.

Section 4. Maintenance of Membership

A member who leaves the jurisdiction of this local may resign as an active member. Arrangements may be made to maintain an inactive membership status through the State Federation.

Section 5. Termination of Membership

A member who remains in the jurisdiction of the Local and elects to resign membership shall follow the procedure set forth below:

- A.
 - (1) On an annual basis, a member may resign during the thirty-calendar day period next preceding the said member's anniversary of the most recent membership application. Such time period shall commence on the thirtieth day preceding the anniversary date and shall terminate on the anniversary date of said membership application; or,
 - (2) In addition to provision A (1) above, a member may resign during the first five days of January each year, exclusive of holidays and weekends.
- B. All resignations must be accomplished in accordance with the procedure specified herein.
 - (1) All resignations shall be in writing and shall be sent by registered mail only, postmarked on the dates set from above.
 - (2) Such registered letters shall be sent to the main HPAE office and shall be addressed to the Local Union's President.
 - (3) Such registered letters shall clearly state the intention to resign. Such statements shall be accompanied by the said member's current address, work location and assignment. Such letters shall contain the signature of the member seeking to resign. Members seeking to resign may include reasons for resignation.

(4) All letters of resignation shall be accompanied by an authorization revoking the deduction of dues and the intent to no longer pay membership dues. Such letters of revocation of dues deduction authorization must also be sent to the said member's employer who makes such deductions at the same time such letters is sent to the Union.

- C. Any failure to fully comply with each and every element of the above procedure shall void the resignation effort and said resignation effort shall have no force or effect.
- D. Any member who resigns pursuant to the procedure set forth above shall not, from that time forward, be caused to bear any financial obligation, which is solely incidental to full union membership.

Any required financial adjustments shall be made as soon as possible.

Section 6. Reinstatement of Membership.

Reapplication for membership to this Local may be made at any time by submitting a new application which may include reasons for both resignation and reinstatement along with application for membership and payment of an initiation fee as set forth in Section 2 of this Article.

ARTICLE V. MEMBERSHIP MEETINGS

Section 1. Regular Membership Meetings

Regular meetings of the general membership shall be held semiannually and as necessary as determined by the Local Executive Board and representatives of the Local.

Section 2. Special Membership Meetings

A special membership meeting may be called at any time by the Local Executive Board or by written request of twenty-five (25%) percent of the membership. Only those items set forth in the notice of a special membership meeting shall be discussed and acted upon at such a meeting.

Section 3. Open and Closed Regular or Special Meetings

Each meeting, regular or special, shall be restricted to members only unless otherwise stated by written notice. Determination for an open meeting is to be made by the Local Executive Board or by written request of 25% of the membership.

Section 4. Notice

Written notice of each meeting, regular or special, shall be mailed to each member and/or posted on an HPAE bulletin board no less than three days prior to the meeting. For regular meetings notification shall be given no less than 14 days prior to the meeting.

Section 5. Quorum

A quorum for the transaction of business at a regular or special meeting shall be defined as follows: One-half ($\frac{1}{2}$) or more of the State Executive Board plus a sufficient number of members so that the total number of officers and other members equals ten (10%) percent of the members in good standing. In the absence of a quorum, business may be discussed and minutes taken but no vote shall be taken on any issue.

Section 6. Local Executive Board Meetings

Regular meetings of the Local Executive Board will take place bimonthly. The President may schedule additional meetings as necessary.

ARTICLE VI. EXECUTIVE BOARD, OFFICERS and REPRESENTATIVES

Section 1. Executive Board

The Local Executive Board shall be the governing body of the local. It shall supervise the affairs of the local and shall have the authority to make rulings and adopt policies not covered by the Constitution and By-Laws, which are consistent with the provision of the Constitution and By-Laws. The Local Executive Board shall consist of three elected officers: President, Vice President, Secretary/Treasurer, and the appointed Grievance Chairperson.

Section 2. President

The President will be the principal officer of the local. It shall be the Presidents' duty to administer the affairs of the Local and to execute policies established by the Local.

The President shall preside at all meetings of the membership and serve as ex-officio member of all committees, may appoint chairpersons of committees, and shall discharge all duties incidental to the Office of President.

The President shall also serve as the Second Vice-President on the State Executive Board of the State Federation and shall be eligible to serve on the Executive Committee of the State Federation in accordance with the State Federation Constitution. The President shall be a delegate to the State and National Convention.

Section 3. Vice President

It shall be the Vice President's job to coordinate the activities of the union reps and the members in the Local. In the absence of the President, the Vice-President shall perform all the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President will assist and direct the Secretary in gathering information for the newsletter. The Vice-President shall be a delegate to the State and National Conventions.

Section 4. Secretary/Treasurer

The Secretary/Treasurer shall perform all duties incidental to the office of Secretary and Treasurer including: keep or cause to be kept an accurate record of minutes of all meetings of the local, shall give or cause to be given notices of all meetings in accordance with these by laws. The Secretary/Treasurer shall supervise the maintenance and distribution of all funds of the Local and shall keep accurate and current records of such funds. The Secretary/Treasurer shall work with the State Federation Treasurer in developing and implementing a budget, shall report regularly on the state of finances, and shall in general perform all duties incidental to the Office of Secretary/Treasurer. The Secretary/Treasurer shall keep all financial records on a permanent basis. The Secretary/Treasurer shall be responsible for the local newsletter. The Secretary/Treasurer shall be a delegate to the State and National Conventions.

Section 5. Grievance Chairperson

The President shall appoint a member, subject to the approval of the Local Executive Board, to serve as Grievance Chairperson. The primary responsibility of the Grievance Chairperson will be the grievance handling for bargaining unit members. The Grievance Chairperson will establish and train a grievance committee. The Grievance Chairperson will serve on the State Executive Council in accordance with the State Federation Constitution.

Section 6. Representatives

The Local Executive Board will determine the number of unit representatives and their assignments. The role of the unit representative is to assist members with grievance handling, provide communication between membership and Local Executive Board, update bulletin boards and recruit and orient new members about the union. The unit representatives, in accordance with these By-Laws shall be appointed by the Local Executive Board.

Section 7. Vacancies

In the event that a vacancy occurs in any elected position, such vacancy shall be filled as soon as practicable in the following manner:

- A. The Vice-President shall fill the vacancy of President until an election can be reasonably scheduled.
- B. For vacancy of any other officer, representative, or Grievance Chair, the President, subject to the approval of the Local Executive Board, shall appoint a member to fill the vacancy for the remainder of the term.

Section 8. Reimbursement for Union Business

Any officer, representative or member who has lost time or expended monies to attend to duly authorized union business shall be reimbursed for such according to the Local's Rebate Policy and State Policy.

Section 9. Reimbursement for Union Business

Any officer, representative or member attending to duly authorized union business will be reimbursed for expenses incurred such as tolls, mileage and parking.

Section 10. Term of Office

Term of office shall be for two (2) years.

No member who has attended less than one-third (1/3) of the regular or special meetings of the Local shall be eligible to run for elected office of the Local.

Section 11. Performance of Duties

Each officer has the responsibility to insure that the other officers are performing their roles and duties as outlined in this Constitution.

ARTICLE VII. COMMITTEES

Section 1. Appointment, Number and Term

The committees of the Local shall be standing or special committees. Each standing committee shall consist of no less than three (3) active members. The committee chairperson

shall be appointed by the President of the Local, and the committee members by the chairperson of the committee, all subject to the approval of the Local Executive Board. Each standing committee member's term shall be concurrent with the Local Executive Board's term of office. Each standing committee shall hold meetings as designated by the committee chairperson. Each standing committee chairperson shall report directly to the Local Executive Board.

Section 2. Standing Committees

A. Labor Management Committee

This committee shall meet at least quarterly per contract year, and as specially scheduled, and present issues to management which are of general concern to the membership. It shall consist of the President and two (2) members appointed by the Local Executive Board.

B. Committee on Political Education COPE

This committee shall be responsible for following legislation and political activity that may have an impact on the Local. The committee shall participate on the State Federation's COPE Committee. The committee will make recommendations to the Local Executive Board regarding the Local's participation in legislative and political issues. The committee will coordinate community education and outreach on these issues.

Section 3. Special Committees

Special Committees may be appointed by the President with the approval of the Local Executive Board for such special tasks as warranted. Special committees shall be limited to the activities necessary to accomplish the tasks for which they were created and upon completion of such tasks, shall be discharged.

A. Committee on Negotiations.

This Committee shall investigate and formulate proposals desired by the membership as a basis for entering into negotiations with the Employer. The President will chair this committee and will determine the number of committee members. The committee will bargain in good faith as representatives of the membership and shall have the authority of the membership to negotiate a contract, which it shall present for ratification to the general membership.

In the event a satisfactory tentative agreement between the negotiating committee for the Local and the employer is not reached, the membership of the Local may consider and authorize actions, which are not in conflict with this Constitution and By-Laws.

B. Committee on Nominations and Elections

This committee will be composed of members in good standing who shall formulate all the rules and procedures for the conduct of elections. No member of this committee can also be a candidate in an election while the member is serving on the nominations committee.

C. Constitution and By-Laws Committee

This committee shall be responsible for reviewing, interpreting and evaluating the need for amendments to this constitution and bylaws.

ARTICLE VIII. STRIKES AND JOB ACTIONS

Section 1. Local Membership Authorization.

The Local membership may utilize job actions or other concerted activity including but not limited to a strike as a means of resolving deadlocked negotiations or other disputes provided the procedures outlined in Article VIII, Section 2 have been followed.

Section 2. Voting Procedures.

- A. The decision to engage in a job action or other concerted activity must be authorized by the Local membership involved through a simple majority of votes cast by secret ballot.
- B. The decision to engage in a job action or other concerted activity will be limited solely to those members who are employees of the particular institution or employer in question.
- C. Notice, by mail and by posting, shall be given to all eligible members at least three (3) days prior to the vote, if time permits.
- D. Voting will be conducted by secret ballot at a membership meeting and if time permits, by mail. Only those mailed ballots received at the time of the vote shall be counted with those ballots cast in person. If a meeting is not possible, voting may be conducted by mail.

ARTICLE IX. RATIFICATION OF CONTRACT

The ratification of a negotiated Collective Bargaining Agreement will be accomplished:

- A. Upon reaching a tentative Agreement, a general membership meeting will be scheduled.
- B. By secret ballot, a majority of ballots cast in favor shall be required to ratify any tentative Agreement arrived at by the negotiations committee.

ARTICLE X. OFFENSES, DISCIPLINE AND HEARING

Section 1. Offenses.

It shall be an offense against the Local for any member to commit any acts which are seriously detrimental to the union including but not limited to the following:

- A. For any member to knowingly make any false statements or misrepresentations in or in connection with said member's application for membership.
- B. For any member to knowingly violate or to conspire or attempt to violate the Constitution and By-Laws of the organization, any laws promulgated thereunder or any lawful order of the Executive Council of the State Federation.
- C. For any member to knowingly work for an employer against whom a strike has been called, unless supported by membership vote.

D. For any member to interfere with the performance of legal or contractual obligations of the Union or its affiliates, or the officers thereof --or to commit a crime or defalcation against the union.

E. For any member to commit or to conspire, incite or attempt to commit violence against any other member.

Section 2. Discipline.

A. The term "discipline" when used in this Article, shall include without limitation a fine, suspension or removal from office, disqualification to run for office, suspension or expulsion from membership or any combination of the foregoing.

B. *In addition*, the penalty for any violation resulting in a wrongful loss of property to any individual or to the Union may include a provision for reimbursement to the body suffering loss.

Section 3. Charges.

- A. Charges against a member of the Local for any violation of the provisions of this Constitution and By-Laws must be made in writing, signed by the members making such charges and presented to the Local Executive Board within six (6) months of the occurrence of the offense or knowledge of occurrence of the offense.
- B. In the case where charges are filed against an officer, such charges will be presented to the highest-ranking officer who is not named in the charge.
- C. The officer receiving such charge will forward a copy to the member or officer cited by registered mail to the last known address of the charged party. A copy of such charge shall be forwarded to the Executive Committee and President.

Section 4. Investigation and Due Process

- A. Within a thirty (30) day period of time of the mailing of the charge, a hearing will be scheduled. The hearing date shall not exceed sixty (60) days from the date of the mailing of the charges. All parties will be notified of such date, time and place by certified mail.
- B. An Investigation Committee will be formulated comprised of Local Representatives and/or members not to exceed **five (5)** in number, and appointed by the Executive Committee of the State Federation.
- C. The charged party may challenge any member of the Investigation committee because of the interest or bias by submitting a challenge in writing to all members of the Investigation Committee and to the Executive Committee of the State Federation. If any challenged member does not request to be excused, the appointing authority shall review the merits of the challenge and, where the claim of interest or bias is sustained, shall cause the member to be relieved of serving. In event a vacancy occurs because of a request to be excused or because of removal for interest or bias, such vacancy shall be filled by appointment from the Executive Council of the State Federation in accordance with this Article.

- D. Either party may choose any other member, an interested third party, or an attorney to represent said member at the hearing.
- E. If insufficient evidence is presented against the charged party, the Investigation Committee shall dismiss the charge.
- F. If the charged party does not appear, the Investigation Committee nevertheless may, if presented with evidence sustaining the charge, make a finding of guilt and impose a punishment.
- G. The Investigation Committee may postpone the hearing for good cause shown.
- H. The burden of proof is on the charging party. Decisions shall be based only upon facts presented to the Investigation Committee during the proceedings and a finding of guilt shall only require a preponderance of the evidence.
- I. A stenographer may be present if requested by either party, seven (7) days prior to the hearing. The party requesting a transcript will assume the costs and will provide a copy to be distributed to the Investigation Committee and a copy to the other parties.
- J. The Investigation Committee will determine the truth of the charges by majority vote and will announce its verdict and punishment at that time. A report will be prepared within fourteen (14) days thereafter and sent by registered mail to the parties involved.
- K. Parties not complying with a verdict and punishment within thirty (30) days of receipt of notice thereof shall be expelled from membership. However, if an appeal has been instituted during that thirty (30) day period, punishment shall not be imposed pending determination of the appeal.
- L. *Any disciplinary action taken by the Local maybe appealed to the Executive Committee, in writing by certified mail within thirty (30) days of the verdict or within such time and in such manner as designated by the Executive Committee.*
- M. Within thirty (30) days of the verdict, appeal may be instituted by notifying the Investigation Committee and other parties in writing of such by certified mail. The appealing party may submit the matter to binding arbitration and will assume all cost of such arbitration. An arbitrator shall be appointed by the American Arbitration Association. The decision of the arbitrator shall be final and binding on all parties. If the arbitrator finds on behalf of the accused individual, said individual will be reimbursed the expenses of the arbitration. Any disciplinary action taken by the Local maybe appealed to the Executive Committee, in writing by certified mail within thirty (30) days of the verdict or within such time and in such manner as designated by the Executive Committee.

Section 5. Authority

- A. Locals have the option to refer charges initiated at the local level to the Executive Committee for appropriate action. In addition, the Executive Committee may exercise any independent jurisdiction it may maintain under its By-laws or Rules as they concern disciplinary or membership matters.
- B. Nothing contained herein shall be in conflict with the State Constitution and By-Laws.

ARTICLE XI. AMENDMENTS

This Constitution and By-Laws may be amended by a vote of two-thirds (2/3) of those members voting in person or by mail ballot at any regular or special meeting provided that at least two (2) weeks in advance of any proposed amendment each member has been notified in writing or such topic has been posted.

ARTICLE XII. SAVINGS CLAUSE

If any provision of this Constitution and By-Laws is found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions of this Constitution and By-Laws.

Ratified by membership of Local 5138

July 18, 2011

Health Professionals and Allied Employees

AFT/AFL-CIO,