

# BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS



## Governance Manual

As adopted by the BCAFN Chiefs in Assembly at the  
Special Chiefs Assembly (Online) on March 9-10, 2022

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## ARTICLE 1 DEFINITIONS

1.1 In this Governance Manual, unless the context otherwise requires:

“Advisory Committee” means a temporary committee established by the members in accordance with Article 12;

“AFN” means the national Assembly of First Nations;

“AFN Committee” means a committee established by the Chiefs-in-Assembly of the AFN;

“AFN Council” means the AFN Knowledge Keepers Council, the AFN Womens’ Council, the AFN 2SLGBTQQA+ Council or the AFN Youth Council;

“AFN Executive Committee” has the meaning set out in Section 9.2;

“BCAFN Representative” means an individual validly elected or appointed to represent BCAFN on any AFN Committee or AFN Council or any other regional or national body, as further set out in Article 9;

“BCAFN Resources” includes any membership or confidential information, financial resources, office facilities, equipment, supplies, personnel or any other property or resource of the BCAFN;

“Campaign Period” has the meaning set out in Section 10.15;

“Chief of Staff” means the most senior employee of the Society that directly or indirectly manages all other employees;

“Electoral Officer” means the individual appointed pursuant to Section 10.3;

“First Nations-in-Assembly” means the First Nation members of the AFN;

“Knowledge Keepers” mean the individuals appointed as Knowledge Keepers pursuant to Section 2.7;

“Strategies” has the meaning set out in Section 4.6; and

“Working Group” means a temporary working group established by the Board in accordance with Article 13.

1.2 Words not specifically defined in this Governance Manual have the same meaning as defined in Bylaw 1.1.

- 1.3 Each schedule referenced in and attached to this Governance Manual is integral to and forms part of the Governance Manual.
- 1.4 If any provisions of this Governance Manual conflict with the Constitution or Bylaws, the Constitution and Bylaws will prevail to the extent of such conflict.

## **ARTICLE 2 ORGANIZATIONAL STRUCTURE**

- 2.1 BCAFN is a “Provincial Territorial Organization” of the AFN, representing First Nations in British Columbia, including but not limited to First Nations currently engaged in the treaty process, those who have signed modern treaties, and those who fall under historic treaty agreements such as the Douglas Treaties and Treaty 8.
- 2.2 BCAFN is a society incorporated pursuant to the laws of the Province of British Columbia under incorporation no. S-45919 and governed in accordance with the *Societies Act*, the Constitution, the Bylaws and the BCAFN Policy Manuals in force from time to time.
- 2.3 BCAFN is comprised of three (3) primary governance branches: the members, the Regional Chief, and the Board.
- 2.4 The Regional Chief serves as BCAFN’s primary political leader, spokesperson and representative.
- 2.5 BCAFN is further governed by the Board, composed of directors elected from among member delegates to each serve a 3-year term.
- 2.6 The Board is responsible for:
  - (a) governing the day to day operations and internal functioning of BCAFN;
  - (b) overseeing BCAFN’s initiatives, as set by the Regional Chief on behalf of BCAFN and as directed by resolutions of the members;
  - (c) supporting and advising the Regional Chief generally in between member meetings; and
  - (d) overseeing and maintaining the Regional Chief’s political accountability to members.
- 2.7 The Regional Chief will appoint three elders, inclusive of male, female and 2SLGBTQQIA+ peoples, each from a BC First Nation, to act as Knowledge Keepers and provide support, guidance and assistance to the Regional Chief, the Board, employees and the Chiefs-in-Assembly for the duration of their terms in office.

- 2.8 BCAFN hosts Special Chiefs Assemblies and Annual General Meetings to allow members to engage in open discussions and provide community-driven directives to the Regional Chief by way of ordinary resolutions.

### **Governing Documents**

- 2.9 The primary governing documents of the Society are its Constitution, which describes the overarching goals and purposes of BCAFN, and its Bylaws, which set out the internal processes and procedures which govern the Society. Current copies of the Constitution and Bylaws of BCAFN can be found on its website at [www.bcafn.ca](http://www.bcafn.ca).
- 2.10 Documents of the Society, other than those governing documents referred to in Section 2.9 and publicly available on the Society's website, may be provided to members upon written request to the Chief of Staff and, if relevant to an Annual General Meeting, will be emailed or faxed to members in advance and provided to meeting registrants on a USB device upon arrival at such Annual General Meeting.
- 2.11 The Board will coordinate and direct the review of each BCAFN Policy Manual other than this Governance Manual no less than every two (2) years. This Governance Manual will be periodically reviewed by the Governance Committee in accordance with Article 9 of the Bylaws.
- 2.12 Any questions or concerns from members about the policies or procedures set out in any BCAFN Policy Manual must be provided in writing to the Board via the Chief of Staff.

## **ARTICLE 3 PURPOSES OF THE GOVERNANCE MANUAL**

### **Purposes**

- 3.1 The purposes of this Governance Manual are to:
- (a) provide, together with the Constitution and Bylaws, a comprehensive framework that formalizes roles, responsibilities and activities as they relate to effective and consistent governance of the Society;
  - (b) define operational procedures to ensure and promote accountability and transparency, including appropriate separation of politics and administration; and
  - (c) clarify the individual roles, responsibilities and accountabilities of all the Society's governance entities.

## **ARTICLE 4 REGIONAL CHIEF**

- 4.1 The Regional Chief serves as BCAFN's primary political leader, spokesperson and representative.
- 4.2 In addition their duties to the BCAFN, the Regional Chief serves as a member of the AFN Executive Committee, accountable to the First Nations-in-Assembly, the AFN

national chief and the other members of the AFN Executive Committee, as further described in Article 9.

- 4.3 The Regional Chief is elected by members in accordance with the Bylaws and this Governance Manual.
- 4.4 At least sixty (60) days in advance of an election for Regional Chief, the Board, having regard to the Regional Chief's duties and responsibilities and the Society's current and projected financial resources, will
- (a) determine the salary, vacation entitlements, any travel or other expense allowances, and any health, disability or retirement benefits that will be available to the incoming Regional Chief for their term of office, and
  - (b) ensure that the Regional Chief's Terms of Office is amended as may be necessary to reflect the terms under subsection (a).

### **Mandate**

- 4.5 The Regional Chief's mandate during their term of office is to:
- (a) uphold the Constitution, Bylaws and all BCAFN Policy Manuals approved from time to time by the members or the Board, as the case may be; and
  - (b) ensure that the priorities and concerns of members, as articulated in resolutions, are included in national and provincial political discussions and within AFN decision-making processes.

### **Responsibilities and Authority**

- 4.6 For greater clarity, to fulfil their mandate, the Regional Chief has the authority and responsibility to take actions and decisions that include, but are not limited to:
- (a) developing the communication and advocacy strategies that are necessary to give effect to member directives provided by way of ordinary resolutions (the "Strategies");
  - (b) with the advice of the Board, responding to emerging issues and opportunities that are of concern to members;
  - (c) acting in their capacity as BCAFN spokesperson;
  - (d) acting in their capacity as a member of the AFN Executive Committee and AFN Committees in accordance with Article 9;
  - (e) working with the Board and the Chief of Staff to ensure that the Society either has or will obtain the financial and human resources to implement the Strategies; and

- (f) implementing the Strategies, which may include giving direction to relevant BCAFN employees.

### **Accountability**

- 4.7 The Regional Chief is accountable to and receives direction from the members by way of resolution, and is responsible for working cooperatively with the Board in accordance with the members' direction, the Bylaws and this Governance Manual.

### **Regional Chief's Designate**

- 4.8 The Regional Chief will appoint, from among the current directors, a designated representative that will serve as spokesperson on behalf of the Regional Chief from time to time, including during any time when the Regional Chief is temporarily unable to act for a period of three (3) months or less. The appointment of Regional Chief's designate must be approved by the Board.
- 4.9 The Regional Chief's designate will be appointed upon commencement of the Regional Chief's term and replaced as needed during the Regional Chief's term of office if, for example, the Regional Chief's designate ceases to be a director.
- 4.10 If the Regional Chief's designate is ever unable to fulfil their duties for any reason, the Board and the Regional Chief may together select another director to step in to perform such duties until the Regional Chief or their designate resumes office.
- 4.11 Unless conducting authorized BCAFN business further to requests made by the Board, the Regional Chief's designate will refrain from making any major decisions during their temporary appointment to office of the Regional Chief and will not use any BCAFN Resources without obtaining prior approval from the Board. The Regional Chief's designate will only carry out those spokesperson duties of the Regional Chief as are necessary and with the support of the Board.
- 4.12 The Regional Chief's designate will not be barred from running for office of Regional Chief following their term as Regional Chief's designate.

### **Resignation and Removal**

- 4.13 If the Governance Committee recommends that the Regional Chief be removed before the expiration of their term of office, the members may, by special resolution at a meeting called for that purpose, accept this recommendation, and in such case, the Regional Chief is removed from office and the Regional Chief's designate will act until the next scheduled Special General Meeting or Annual General Meeting, whichever is to occur first, at which time an election will be held for a new Regional Chief in accordance with the Bylaws and the Governance Manual.



- 4.14 Any Regional Chief elected to replace an outgoing Regional Chief prior to the expiry of the outgoing Regional Chief's term will begin their new 3-year term of office on the day following their election.
- 4.15 The Regional Chief will retire from office on the final day of their term unless the Regional Chief is removed under Section 4.13, in which case the Regional Chief's last day in office will be as set out in the special resolution confirming the removal.
- 4.16 For greater certainty, any absence by the Regional Chief of three (3) months or less will be deemed to be temporary and in such cases, the Regional Chief's designate will act on behalf of the Regional Chief until their return to office.

### **Reporting**

- 4.17 The Regional Chief will provide quarterly and annual activity reports to members on developments within BCAFN. The Regional Chief may, in their discretion, report to members by posting information on BCAFN's website at [www.bcafn.ca](http://www.bcafn.ca).

## **ARTICLE 5 BOARD OF DIRECTORS**

- 5.1 Candidates for a seat on the Board must be at least eighteen (18) years of age as of the date of the election and a member delegate.
- 5.2 If at any time, a director ceases to be a member delegate, the director may continue to serve as a director, but only until the next Annual General Meeting or Special Chiefs Assembly that includes an election of directors, at which time the director's term will be deemed to have ended and a successor will be elected for a new 3-year term in the usual manner.
- 5.3 Employees of BCAFN are not eligible to become directors.
- 5.4 In addition to a director's duty to comply at all times with the Conflict of Interest Guidelines, a director present at a meeting considering a matter for which they have reasonable grounds to believe that they have a conflict of interest or perceived conflict of interest will fully disclose the nature of the conflict or perceived conflict of interest, and remove themselves from the meeting, and not attempt to influence discussions or decisions about the matter.
- 5.5 The remaining directors present and not involved in a conflict may decide that the director who discloses a conflict of interest or perceived conflict of interest can participate in the discussion, and on what conditions.
- 5.6 The Board will nominate from amongst themselves such officers as are prescribed in the Bylaws.
- 5.7 The Treasurer and the Regional Chief will be authorized signing officers for the Society. The Board may appoint another director or an employee as an authorized signing officer,

but such appointment must be made by way of directors' resolution that is passed by at least two-thirds (2/3<sup>rds</sup>) of the directors.

### **Mandate**

5.8 The mandate of each director during their term of office is to uphold the Constitution, Bylaws and all BCAFN Policy Manuals approved from time to time by the members or the Board, as the case may be.

### **Responsibilities and Authority**

5.9 The Board's legal authority and responsibility is set out in Bylaw 5.1.

5.10 For greater clarity, in order to fulfil its mandate, the Board has the authority and responsibility to take actions and decisions that include, but are not limited to:

- (a) approving annual budgets, financial statements and any significant expenditures in accordance with the Financial Controls Manual;
- (b) approving amendments to the Anti-Harassment Policy, the Human Resources Manual or the Financial Controls Manual or approving any new policy as the Board may determine to be necessary or advisable from time to time;
- (c) approving draft amendments to the Executive Limitations Policy, Code of Conduct, Oath of Office or Standing Rules of Procedure for Assemblies and proposing such draft amendments to the members for approval;
- (d) monitoring compliance with BCAFN Policy Manuals with respect to the recruitment and hiring of senior employees;
- (e) delegating authority to the Regional Chief to recruit and hire the Chief of Staff;
- (f) defining the authority of the Chief of Staff in their contract and applicable BCAFN Policy Manuals and monitoring their compliance with BCAFN Policy Manuals; and
- (g) receiving reports from the Regional Chief and senior employees.

### **Accountability**

5.11 The Board is accountable at all times to the members, and is responsible for working cooperatively with the Regional Chief in accordance with the members' direction, the Bylaws, and this Governance Manual.

### **Reporting**

5.12 The Board will provide, at a minimum, yearly activity reports to the members on relevant issues, activities and developments occurring at BCAFN. The Board may, in its

discretion, report to members by posting information on BCAFN website at [www.bcafn.ca](http://www.bcafn.ca), or by making verbal reports at meetings.

## **ARTICLE 6 COOPERATION BETWEEN REGIONAL CHIEF AND THE BOARD**

- 6.1 Pursuant to Sections 4.7 and 5.11, the Regional Chief and the Board are responsible for working cooperatively in accordance with the members' direction, the Bylaws and this Governance Manual.
- 6.2 If the Regional Chief disagrees with a decision of the Board that, in the reasonable opinion of the Regional Chief, affects their ability to carry out their mandate, the Regional Chief may request that the Board delay implementation of such decision until the next Annual General Meeting or Special Chiefs Assembly, whichever comes first, at which time the Regional Chief and the Board will seek direction from the members.
- 6.3 The Board will agree to a request made by the Regional Chief under Section 6.2, unless doing so would put the directors in contravention of their duty to act in the best interests of the Society.
- 6.4 If the Board is of the opinion that a decision or action of the Regional Chief was taken outside of their mandate, or was not in accordance with the direction provided by the members, the Board may, after discussion with the Regional Chief
  - (a) request that the Regional Chief reconsider such decision or action, and
  - (b) if the Regional Chief does not reconsider, the Board may seek direction on such decision or action from the members at the next Annual General Meeting or Special Chiefs Assembly, whichever comes first.

## **ARTICLE 7 MEMBERSHIP**

- 7.1 Any recognized British Columbia First Nation that is not currently a member may give written notice to the Board of its intention to join the BCAFN as a member, and on receipt by the Board of such notice, will become a member of the Society.
- 7.2 Written notice for purposes of 7.1 may be in any form and will include the following:
  - (a) the legal and/or traditional name of the First Nation;
  - (b) full contact information for notices and other Society communications, including mailing address, email address, and facsimile and telephone numbers;
  - (c) the name and contact information of the member delegate along with their full contact information; and
  - (d) a valid resolution of the First Nation's elected governing body authorizing its member delegate to represent the member at BCAFN.

- 7.3 The Chief of Staff will ensure that a Membership List is maintained that includes current information provided by the members and updated as necessary to reflect any written notices received under Section 7.1.
- 7.4 No changes to the Membership List will be accepted as of the day a notice of a meeting or call for nominations is issued by the Board to the members, until the close of such meeting or election, as the case may be.

### **Voting**

- 7.5 Every member of the Society is a voting member, entitled to one (1) vote on each matter to be voted on at a meeting of members, in accordance with the Bylaws.

### **Dues**

- 7.6 There will be no annual or other membership dues for the Society.

## **ARTICLE 8 MEMBER DELEGATES**

### **Appointment and Representation**

- 8.1 Each member is entitled to one member delegate at any given time. Such member delegate is to be the First Nation's Chief or Chief's designate, and must be at least 18 years of age at the date of becoming the member delegate. Where the First Nation has replaced the Chief and Council system with a different governance system, it may designate a senior political representative as the member delegate.
- 8.2 When attending an Annual General Meeting or Special Chiefs Assembly, a member delegate may also be referred to as a "Chief in Assembly".
- 8.3 A member delegate must represent only the interests of the appointing member.
- 8.4 A member delegate appointed under Section 8.1 remains a member delegate at the pleasure of the appointing member or as otherwise provided in the Bylaws or this Governance Manual.
- 8.5 If a First Nation's member delegate is a Chief or Chief's designate, and that First Nation elects a new Chief, that newly elected Chief will become the member delegate upon taking office, unless or until the member provides written notice to the Chief of Staff in accordance with Section 8.9.

### **Rights of Member Delegate Upon Notice to Society**

- 8.6 After receipt by the Society of notice of the appointment of a member delegate, that member delegate is entitled to:
- (a) receive notice of meetings of the Society;
  - (b) attend and participate in meetings;

- (c) vote in elections;
- (d) vote on ordinary and special resolutions on behalf of the appointing member; and
- (e) participate and act on behalf of the member for any Society purpose.

### **No verification by Society**

8.7 The Society is not responsible for verifying the legal validity of any member delegate or for ensuring compliance with any instructions given by a member to a member delegate.

### **Removal of Member Delegate**

- 8.8 A person is removed as a member delegate upon
- (a) receipt by the Chief of Staff of a valid resolution in writing of the appointing member confirming the termination or replacement of its member delegate,
  - (b) receipt by the Chief of Staff of the resignation in writing of the member delegate,
  - (c) failing to be re-elected by their First Nation as the Chief or senior political representative of their community,
  - (d) the death of the member delegate, or
  - (e) a special resolution calling for removal of the member delegate on the basis of either willful breach of the Constitution or Bylaws or conduct determined likely to prevent achievement of the purposes of the Society, or for any other lawful reason.

### **Replacement**

8.9 If a person is removed or resigns as a member delegate, the appointing member may appoint a replacement member delegate by providing to the Chief of Staff a valid resolution of the member First Nation's elected governing body confirming the replacement, and further, in accordance with the Bylaws and this Governance Manual.

### **Duties of Member and Member Delegate**

- 8.10 Each member and member delegate must uphold, observe and perform the processes, rules and procedures applicable to membership as set out in the Constitution, the Bylaws, applicable laws and all applicable BCAFN Policy Manuals, including this Governance Manual and the Principles to Combat Bullying and Harassment, attached hereto as Schedule "A".
- 8.11 Without limiting the foregoing, no member or member delegate will accept remuneration or other benefit from the Society, except as otherwise contemplated by the Society's Constitution and Bylaws.

## ARTICLE 9 AFFILIATIONS

### Participating Member of the AFN

- 9.1 BCAFN is one of ten regional organizations affiliated with the AFN.
- 9.2 Under its charter, three of the principal organs of the AFN are:
- (a) the First Nations-in-Assembly,
  - (b) a secretariat that provides administrative, technical and support staff to the AFN, and
  - (c) an executive committee that, as a collective of regional chiefs and the national chief, governs the secretariat and is accountable to and receives direction from First Nations-in-Assembly (the “AFN Executive Committee”).
- 9.3 The Regional Chief serves on the AFN Executive Committee, and in that role, they are to ensure regional concerns of BCAFN members are included in provincial and national political discussions and AFN decision-making processes.

### AFN Committees

- 9.4 The AFN delegates to the Regional Chief specific portfolios relating to national policy matters. These portfolios are held by the Regional Chief and supported by various AFN Committees. The Regional Chief and the Board jointly appoint member delegates or external technical experts to sit on AFN Committees from time to time, to represent BCAFN.

### AFN Councils

- 9.5 In addition to the AFN Committees, there are four AFN Councils: the AFN Youth Council, the AFN Women’s Council, the AFN Knowledge Keepers Council and the AFN 2SLGBTQQA+ Council.
- 9.6 Subject to and in accordance with the AFN’s current policies and procedures respecting the AFN Councils, members will elect in accordance with the election procedures set out in Article 10
- (a) two (2) representatives to the AFN Youth Council,
  - (b) one (1) female representative to the AFN Women’s Council, and
  - (c) one (1) representative to the AFN 2SLGBTQQA+ Council,
- and the term of each representative so elected will begin on the day after the close of the meeting at which they were elected.

- 9.7 Any casual vacancy on or any alternate that is to be appointed to the AFN Youth Council, AFN Women's Council or the AFN 2SLGBTQQIA+ Council may be filled by an appropriate representative appointed by the Regional Chief with approval from the Board.
- 9.8 The Knowledge Keepers, appointed by the Regional Chief under Section 2.7, will both represent BCAFN on the AFN Knowledge Keepers Council.

### **Other Affiliations**

- 9.9 The Board will facilitate the election or appointment by members of BCAFN Representatives to other regional or national bodies or affiliated organizations, as directed by members or the Board from time to time.

### **Accountability**

- 9.10 Each BCAFN Representative has a duty to the Society to advance the purposes of BCAFN and uphold the Constitution, Bylaws, and BCAFN Policy Manuals at the regional or national level during their time participating in any regional or national body, as the case may be, including but not limited to any AFN Committee or AFN Council.
- 9.11 Elected BCAFN Representatives sitting on any regional or national body or affiliated organization, including but not limited to any AFN Committee or AFN Council, will be expected to:
- (a) volunteer their time to work at the national level to advance Aboriginal rights and policies that reflect the mandate and vision of BCAFN, without remuneration;
  - (b) fairly reflect the views and interests of BCAFN as a whole; and
  - (c) represent BCAFN impartially and to the best of their ability.
- 9.12 As a member of the AFN Executive Committee, the Regional Chief is accountable to the First Nations-in-Assembly, the national chief and other members of the AFN Executive Committee. If the Regional Chief's duties to BCAFN ever conflict with their duties to the AFN, the Regional Chief will follow the Conflict of Interest Guidelines.
- 9.13 BCAFN Representatives are accountable to the Regional Chief and the Board, who are ultimately accountable to the members, and any BCAFN Representative who fails to meet their prescribed obligations may be removed by the Board or the Regional Chief at any time.
- 9.14 If an elected BCAFN Representative is removed under Section 4, the Board may fill the resulting vacancy but only until the next Annual General Meeting, at which time an election for a new BCAFN Representative will be held in the usual manner.

## **Reporting**

9.15 BCAFN Representatives will:

- (a) report to the Regional Chief in writing within thirty (30) calendar days of each AFN meeting attended with a summary of relevant issues discussed and projects underway;
- (b) report annually to the members at each Annual General Meeting; and
- (c) report to members at any Special Chiefs Assembly, if appropriate and recommended by the Regional Chief.

9.16 The Regional Chief will attend AFN National Assemblies and provide quarterly reports to members on relevant issues, activities and developments occurring at the AFN. The Regional Chief may, in their discretion, report to members by posting information on BCAFN's website at [www.bcafn.ca](http://www.bcafn.ca).

## **ARTICLE 10 ELECTIONS**

### **Purposes and Principles**

- 10.1 The purpose of this Article 10 is to maintain the impartiality and credibility of BCAFN during its elections and other secret ballot votes, ensure fairness to all candidates and ensure that BCAFN Resources are not used to advance the interests of any candidate.
- 10.2 This part is intended to provide members with an election process based on principles of transparency, accountability, openness and fairness and which ensures their full participation in the election of the Regional Chief, the directors and any other elected offices or representatives of the Society.

### **Appointment and Removal of Electoral Officer**

- 10.3 The Board will appoint, and replace as required, an Electoral Officer to oversee BCAFN's secret ballot voting processes and procedures, including nomination and election processes, and be accountable to all members.
- 10.4 The Electoral Officer will be appointed not less than one hundred (100) days before the expiration of the term of the office which is subject to election.
- 10.5 The Electoral Officer must be a person who:
  - (a) has no interest in the outcome of the election;
  - (b) is at least eighteen (18) years of age; and
  - (c) has experience in the conduct of elections or has received appropriate training with references.



- 10.6 The Electoral Officer may be removed if at least five (5) members submit a written complaint to the Board setting out reasons for their objection to the current Electoral Officer, in which case the Board may, in its discretion, pass a directors' resolution to remove the Electoral Officer and appoint BCAFN's current auditors to act as the Electoral Officer for the upcoming election, or until such time as a replacement Electoral Officer is appointed.

### **Duties and Responsibilities of Electoral Officer**

- 10.7 The Electoral Officer is responsible for managing and executing all secret ballot voting processes and procedures, including nomination and election processes, as set out in this Governance Manual, and as further set out in Schedule "B".
- 10.8 Recognizing that the Electoral Officer is responsible for managing and executing all secret ballot voting processes and procedures in accordance with Section 10.7 and Schedule "B" and that, in carrying out their responsibilities, the Electoral Officer may require legal advice, the Board will, in advance of every meeting where elections are to be held:
- (a) retain legal counsel to be available on the day of the election or other secret ballot vote to advise the Electoral Officer on any legal questions that may arise, and
  - (b) instruct legal counsel, in responding to legal questions on matters involving electoral or other secret ballot processes and procedures, to only take instructions from the Electoral Officer.
- 10.9 For purposes of Section 10.8, a "legal question" means the interpretation of this Governance Manual, the Constitution or the Bylaws, as may be required, and whether a question is a legal question will be decided by legal counsel in their discretion, whose decision on such will be final and binding.
- 10.10 Where the Electoral Officer is unable or unwilling to perform their responsibilities for whatever reason, they must immediately notify the Board. Upon receiving such notification, the Board must appoint a replacement Electoral Officer.

### **Nominations**

- 10.11 A candidate for the following positions must meet the following nomination requirements:
- (a) a candidate for Regional Chief must be
    - (i) a member or citizen of a First Nation in British Columbia,
    - (ii) at least eighteen (18) years old on the election date,
    - (iii) nominated by no less than five (5) members, one of which must be their own First Nation;

- (b) a candidate for director must be
  - (i) a member delegate,
  - (ii) at least eighteen (18) years old on the date of the election, and
  - (iii) nominated by no less than five (5) members, one of which must be their own First Nation;
- (c) a candidate for the AFN Youth Council must be a youth in a leadership position who
  - (i) is a member or citizen of a First Nation in British Columbia,
  - (ii) is no less than sixteen (16) and no more than twenty-nine (29) years old on the date of the election,
  - (iii) meets any requirements set out in the terms of reference for the AFN Youth Council, and
  - (iv) is nominated by no less than two (2) members;
- (d) a candidate for the AFN Women’s Council must be a woman in a leadership position who
  - (i) is a member or citizen of a First Nation in British Columbia,
  - (ii) meets any requirements set out in the terms of reference for the AFN Women’s Council, and
  - (iii) is nominated by no less than two (2) members; and
- (e) a candidate for the AFN 2SLGBTQQIA+ Council must be an a 2SLGBTQQIA+ individual in a leadership position who
  - (i) is a member or citizen of a First Nation in British Columbia,
  - (ii) meets any requirements set out in the terms of reference for the AFN 2SLGBTQQIA+ Council, and
  - (iii) is nominated by no less than two (2) members.

10.12 A notice of the election, which shall include a list of nomination qualifications and requirements and a nomination acceptance form, will be sent to members at least seventy-five (75) calendar days prior to the election date. The nomination acceptance form will be provided to potential candidates upon request.

- 10.13 In order to accept a nomination and stand for election, a candidate must send to the Electoral Officer at least forty-five (45) calendar days prior to the election date a signed nomination acceptance form and a one-page candidate profile.
- 10.14 The nomination acceptance form will be approved by the Electoral Officer and must provide an opportunity for the candidate to appoint their scrutineer(s), if any. Any scrutineer appointment must be made at the time the nomination is filed with the Electoral Officer.
- 10.15 The campaign period for the office of Regional Chief and directors (a “Campaign Period”) will commence on the date that is forty-five (45) calendar days prior to the date set for the election and will end at midnight on the day of the election.

### **Online Elections in Exceptional Circumstances**

- 10.16 Where, an election will be held by online voting due to exceptional circumstances in accordance with Schedule “C”, the provisions of Schedule “C” apply in place of sections 10.19 to 10.24 [*Voting*], 10.25 to 10.30 [*Counting votes*], 10.34 to 10.36 [*Scrutineers*], and 10.39 [*Electing the Regional Chief: Fifty Percent*] of this Governance Manual.
- 10.17 For greater certainty, for an election that is conducted in accordance with Schedule “C”, where there is a conflict between the provisions in Schedule “C” and this Article 10, Schedule “C” prevails to the extent of the conflict.

### **Voting**

- 10.18 Each member will have only one (1) vote in each election, which may only be exercised by its member delegate or duly registered proxy.
- 10.19 The vote will be by secret ballot. Once a member delegate is verified by voting scrutineers or registration clerks appointed by the Electoral Officer as applicable, the member delegate or proxy holding that member’s vote will sign next to their name on the voter list and the member delegate will be given a ballot. Use of a camera or cell phone behind the voting screen will be prohibited, and the scrutineer or registration clerk as applicable will inform voters of this prohibition.
- 10.20 After receiving a ballot or ballots, the voter will, in the polling booth or space provided, mark it with an “X” in the square provided opposite to the name or question for which the voter desires to vote, fold the ballot, and, in the presence of the Electoral Officer and scrutineers, deposit the ballot in a secure ballot box.
- 10.21 Ballots that are not marked or have on them writing or a mark other than “X” will be considered spoiled and will not be counted, except where the voter has by some other mark, in the opinion of the Electoral Officer, clearly indicated an intention, in which case the Electoral Officer may declare the ballot not spoiled and count it accordingly, whose decision will not be open to question or review on the day of the election and will be considered final, subject only to an appeal filed in accordance with the Bylaws.

- 10.22 No person other than the voter, for the time that it takes to vote, is permitted in the polling booth or allocated space for voting.
- 10.23 While voting is being carried out, no person may do any of the following in the immediate vicinity of a polling station as determined by the Electoral Officer:
- (a) post, display or distribute campaigning material or advertising, or any material that identifies a candidate or represents a particular choice on a question being voted on by secret ballot; or
  - (b) canvass or solicit votes or otherwise attempt to influence how an eligible voter votes.
- 10.24 When a ballot box is full it must be sealed by the Electoral Officer and once sealed, the seal can only be broken by the Electoral Officer in the presence of at least two (2) scrutineers. The Electoral Officer will secure full ballot boxes in a locked room or secured location. No person will be allowed access to the locked room or secured location or to inspect the ballot boxes without the presence of the Electoral Officer and at least two (2) scrutineers.

### **Counting the Votes**

- 10.25 When voting is completed, full ballot boxes will be removed from their secure location and counted one by one, their seals checked by the Electoral Officer, and each ballot box will be opened in the presence of scrutineers, if any.
- 10.26 Ballots will be counted at the polling stations where the votes are cast. In all circumstances, ballots will be counted in the presence of the Electoral Officer and scrutineers, if any.
- 10.27 If there is a dispute as to the validity of a ballot on the day of an election, the Electoral Officer will make a final determination that is subject only to an appeal filed in accordance with the Bylaws, and count or not count the ballot accordingly. Any disputed ballots so counted will be segregated and placed in a separate box or envelope so they will be available for counting in the event of a subsequent challenge to the election. The number of “disputed” ballots will be counted, and the number of such ballots recorded prior to sealing the box or envelope in which such disputed ballots will be placed.
- 10.28 The Electoral Officer will confirm the final count of ballots, and then in the presence of scrutineers, if any, the Electoral Officer will place all ballots, including any disallowed ballots into a ballot box and then seal the ballot box.
- 10.29 The Electoral Officer will make a written record of the results of the election, sign it, and provide it to the Board within two (2) weeks of the date of the election for inclusion in the minutes of the meeting.
- 10.30 Immediately following the election, all membership records, including membership lists, sealed ballot boxes and other elections records, including voter lists, used and unused

ballots, and all tally sheets will be placed in boxes, sealed, and delivered to a secure location chosen by the Electoral Officer which, for certainty, may not be an office of the BCAFN, where they will remain for thirty (30) calendar days after the election or such longer period as a court of competent jurisdiction may order. The membership and election records, including the ballots used in the election, may be unsealed and counted or inspected only in the presence of legal counsel for BCAFN and legal counsel for each candidate, if any.

10.31 No one may challenge the electoral results unless filing an appeal in accordance with the Bylaws.

### **Proxies**

10.32 A proxy appointment made by a member in accordance with the Bylaws is valid in respect of an election, and votes cast by proxy in an election will be treated in the same way as votes cast by member delegate.

10.33 The Electoral Officer will resolve any dispute regarding the casting of a proxy vote in an election in accordance with the Bylaws.

### **Scrutineers**

10.34 Each candidate may appoint one (1) scrutineer per polling station who is entitled to be present during voting and the counting of ballots. The candidate will appoint their scrutineer(s) at the same they accept the nomination. For certainty, a candidate may appoint themselves as a scrutineer and act in that capacity. In the case of a secret ballot vote on a matter other than an election, any person who is the subject of that vote may appoint scrutineers as if they were a candidate for election.

10.35 Scrutineers, if any, are required to:

- (a) approve the voter list circulated by the Electoral Officer in writing and in advance of the opening of the poll;
- (b) contest the right of a person to vote if there is a valid reason for doing so and call on the Electoral Officer to make a determination in the event of a dispute over voter eligibility; and
- (c) deliver any used duplicate voters list in their possession at the close of the polls to the Electoral Officer.

10.36 At each polling station, at least two (2) scrutineers may:

- (a) scrutinize the sealing of the empty ballot boxes before voting;
- (b) verify the identity of each prospective voter and faithfully mark on a duplicate voters list to whom a ballot is given;

- (c) scrutinize the unsealing of the ballot boxes prior to vote counting; and
- (d) scrutinize the sealing of the voting material by the Election Officer after an election.

### **Electing the Regional Chief: Fifty Percent**

- 10.37 The winning candidate in an election for Regional Chief must have more than fifty percent (50%) of the votes validly cast in the election. For greater certainty, a candidate who receives fifty percent (50%) plus one of the votes validly cast in the election wins that election.
- 10.38 If there is only one candidate for Regional Chief, they will attain office by acclamation.
- 10.39 If there are more than two (2) candidates and none of the candidates attains fifty percent (50%) of the votes validly cast on the first poll, further polls will be taken until one of the candidates attains the necessary number of votes. On each successive poll, the name of the candidate with fewest votes will be removed from the ballot.
- 10.40 In the event of a tie between the last two (2) candidates after the poll, another poll will be taken, and if a tie occurs after a second poll is held, successive polls will be taken until the tie is broken by either:
- (a) one of the two candidates receiving more than fifty percent (50%) of the votes validly cast, or
  - (b) one of the two candidates withdrawing.
- 10.41 Any candidate for Regional Chief may withdraw from the election at any time by advising the Electoral Officer directly of their withdrawal in writing.

### **Electing Directors**

- 10.42 The five (5) director positions on the Board are intended to be filled in staggered 3-year terms so that terms overlap, in order to retain institutional knowledge on the Board.
- 10.43 If there are insufficient candidates to hold competitive elections, the candidates attain office by acclamation.
- 10.44 If there are more candidates than positions available on the Board at any given election, a single, secret ballot poll will be taken to fill all available seats. For example, if there are five (5) candidates and three (3) seats open on the Board, those candidates who receive the first, second, and third most votes in the secret ballot poll are elected into office.

### **Conduct of Incumbent Regional Chief during the Campaign Period**

- 10.45 Where a Regional Chief is nominated and decides to stand for re-election they must relinquish all of their financial signing authority and shall not use BCAFN Resources to support or further their election campaign.
- 10.46 During a Campaign Period, the incumbent Regional Chief will continue to fulfil their responsibilities and perform their duties in accordance with Article 4 of this Governance Manual, but must not do any of the following without prior approval from the Board:
- (a) travel within British Columbia on BCAFN or AFN business or using BCAFN Resources; or
  - (b) issue any statement to, or appear before, any media organization.
- 10.47 During their term of office or employment, directors, employees and the Regional Chief are prohibited from supporting the election campaign of any candidate for Regional Chief or any other BCAFN office.

### **ARTICLE 11 ADVISORY COMMITTEES**

- 11.1 The Chiefs-in-Assembly may from time to time, by ordinary resolution:
- (a) establish one or more ad hoc committees to advise the members on a matter (each, an “Advisory Committee”);
  - (b) appoint any number of member delegates or other individuals to serve on the Advisory Committee in accordance with their direction, except that any appointee who is not also a member delegate must be a non-voting member of that Advisory Committee; and
  - (c) direct the Advisory Committee or the Board to develop terms of reference.
- 11.2 The Board may appoint one director to each Advisory Committee established under Section 11.1, who will serve as a voting member of the Advisory Committee in addition to the other member delegates appointed by the members.
- 11.3 An Advisory Committee continues until dissolved by ordinary resolution, or until it completes the tasks or objectives set out in its terms of reference.
- 11.4 Unless otherwise directed by the members by way of ordinary resolution, the Regional Chief will select the committee chair for each Advisory Committee from among the individuals appointed by the members.
- 11.5 The chair of an Advisory Committee may invite input from the Board or member delegates who are not appointed to the Advisory Committee, and may also consider requests by non-committee members to attend committee meetings from time to time.

- 11.6 Advisory Committees will adhere to any rules imposed on them by the Board or members, and to their approved terms of reference, the Constitution and Bylaws, and all applicable BCAFN Policy Manuals.
- 11.7 Advisory Committees will report every act or thing done in exercise of their mandates to the earliest meeting of the Board held after the act or thing has been done and at a minimum provide quarterly written updates to members.

## **ARTICLE 12 WORKING GROUPS**

- 12.1 The Board may from time to time, by directors' resolution:
- (a) establish one or more working groups to advise the directors and the Regional Chief on any specific issues that are within the scope of the Board's mandate and authority (each, a "Working Group");
  - (b) appoint any directors, employees or external consultants to serve on the Working Group in accordance with their direction; and
  - (c) provide terms of reference for the Working Group.
- 12.2 For greater certainty, any Working Groups established by the Board will focus on strategic and policy direction and not day to day administration matters.
- 12.3 Working Groups will adhere to any rules imposed on them by the Board or members, and to their terms of reference, the Constitution and Bylaws, and all applicable BCAFN Policy Manuals.
- 12.4 Working Groups will report regularly to the Board in accordance with their terms of reference.
- 12.5 The Board and the Regional Chief must consider reports of Working Groups but are not required to accept or adopt recommendations.

## **ARTICLE 13 OATH OF OFFICE**

- 13.1 Each individual elected to a position or office of BCAFN must sign, submit and comply with the current version of BCAFN's Oath of Office, which will be provided to each such individual upon their election or appointment.



## **SCHEDULE “A”: PRINCIPLES TO COMBAT BULLYING AND HARASSMENT**

In this Schedule, “bullying and harassment” includes any inappropriate conduct or comment by one person towards another that the person knew or reasonably ought to have known would cause the other to be humiliated or intimidated. This includes but is not limited to: verbal aggression, physical violence, threats or insults, discrimination, calling someone derogatory names, harmful hazing or initiation practices, vandalizing personal belongings, and spreading malicious rumors. A “participant” is anyone who attends a BCAFN event or engages online with social media accounts hosted by the BCAFN.

The Principles in this Schedule apply in accordance with the Bylaws and the Governance Manual to the conduct of the Regional Chief, directors, member delegates and proxy holders.

### **Principles**

- I. BCAFN is committed to ensuring that its organization is free of bullying and harassment and that everyone working within the BCAFN has the right to be treated in a fair and respectful manner. Bullying and harassment is not acceptable or tolerated in the BCAFN workplace, in the conduct of any BCAFN business or at any BCAFN assembly, meeting or event.
- II. When conducting BCAFN business, attending BCAFN assemblies, meetings or events, and communicating with BCAFN employees and each other (whether online or otherwise), the Regional Chief, directors, member delegates, proxy holders and any participants must:
  - a. not engage in bullying or harassment;
  - b. report if bullying and harassment is observed or experienced; and
  - c. apply and comply with the standards set out in BCAFN’s policies and procedures on workplace bullying and harassment.
- III. All reports about bullying and harassment must be made in good faith.
- IV. Personal information that is collected, received or compiled from a report and through the course of any resolution process will be treated as confidential by BCAFN in accordance with privacy legislation.
- V. Reports about bullying or harassment by the Regional Chief, a director, a member delegate, a proxy holder, or a participant can be made on a confidential basis to any BCAFN director.
- VI. Upon receiving a report, a director will bring the matter to the Board and the Board, after reviewing the report, will either refer it to the Governance Committee in accordance with the Bylaws, or investigate the report directly by, at a minimum, speaking with both the complainant and the respondent. After concluding an investigation, the Board will determine an appropriate course of action and inform the complainant and respondent of any actions or decisions taken.

- VII. If the report involves a director, that director will be excluded from any Board discussions or decisions related to the report.

## **SCHEDULE “B”: DUTIES AND RESPONSIBILITIES OF ELECTORAL OFFICER**

- I. In executing the responsibilities of their office, the Electoral Officer will:
  - (a) at all times, conduct themselves with honesty and integrity, complying with the requirements of the *Societies Act*, the Bylaws and applicable BCAFN Policy Manuals;
  - (b) exercise professional judgment and discretion in accordance with the principles of natural justice and procedural fairness;
  - (c) remain neutral and refrain from providing any preferential treatment or expressing support for or opposition to any candidate or outcome;
  - (d) not pressure or intimidate other officials or personnel to favour a certain candidate or outcome; and
  - (e) avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision-making where the Electoral Officer has a personal or private interest in the matter at issue.
  
- II. The Electoral Officer is responsible for:
  - (a) preparing nomination forms and receiving nominations of candidates for the office of Regional Chief, director and any BCAFN Representative;
  - (b) determining the eligibility of candidates in accordance with the *Societies Act*, the Bylaws and applicable BCAFN Policy Manuals;
  - (c) in consultation with the Chief of Staff, preparing applicable voter lists;
  - (d) furnishing voter lists to scrutineers at least fourteen (14) calendar days before any election or other secret ballot vote and securing each scrutineer’s written acknowledgement that the voter list is complete in advance of the election;
  - (e) subject to direction from the Board, setting the form of the ballot;
  - (f) making all administrative arrangements in connection with the election and any subsequent by-elections including fixing the number and location of polling stations, determining the area that qualifies as the “immediate vicinity” of the polling stations for purposes of Section 10.23, and preparing and posting notices;
  - (g) ensuring any proxy appointments received are properly documented and noted on any voter list;
  - (h) resolving any disputes about the validity of proxy appointments in accordance with the Bylaws;

- (i) resolving any disputes about voter eligibility on the day of the election or other secret ballot vote;
  - (j) ensuring every person eligible to vote has a reasonable opportunity to do so;
  - (k) ensuring that a separate poll, which may be conducted at the same time as another election, so long as there are separate ballots for each election, is conducted for:
    - (i) each position, except if the poll is being taken to elect multiple directors, in which case the poll is conducted in accordance with Section 10.44;
    - (ii) any secret ballot poll being conducted under Bylaw 5.11 [*director removal*] or Bylaw 8.11 [*Governance Committee recommendations*]
- in accordance with the Bylaws and applicable BCAFN Policy Manuals;
- (l) determining if a ballot that is irregularly marked is to be counted;
  - (m) supervising the tally of all votes;
  - (n) making a final determination on the validity of ballots;
  - (o) securing the voter list, ballots and ballot boxes;
  - (p) giving such directions or instructions as the Electoral Officer thinks necessary for the proper conduct of the vote;
  - (q) promptly declaring the election or other secret ballot vote results to members at the Annual General Meeting or Special Chiefs Assembly, as appropriate; and
  - (r) providing a final electoral report to the Board after the election.

## SCHEDULE “C”: ONLINE VOTING FRAMEWORK

[Explanatory note: *This Schedule has been added to the Governance Manual as of August 13, 2020 to provide for online voting in elections that take place at a meeting that must be held by videoconference due to exceptional circumstances.*]

### Application

- I. This Schedule applies to the elections that will take place at the Annual General Meeting in 2020, which will be held online due to the COVID-19 pandemic and related provincial health and safety guidelines and precautions.
- II. This Schedule may also apply in future elections if, after considering advice from public health authorities, the Board decides that due to exceptional circumstances a meeting will occur at a time when it is unlikely that in-person voting can be done in a safe manner.

### Online voting

- III. Voting in elections may be conducted using an internet-based system that facilitates confidential voting (an “**Online Voting System**”).
- IV. For elections that take place using an Online Voting System:
  - (a) in respect of each poll, a member may exercise its one vote by having its member delegate or duly appointed proxy cast a vote using the Online Voting System;
  - (b) to be eligible to vote,
    - i. a member delegate must be on the voters list and be present at the meeting, and
    - ii. a proxy must be duly appointed and be present at the meeting;
  - (c) a member will be deemed to be “present” at the meeting for the purposes of the Bylaws, the Governance Manual and this Schedule, if the member delegate or duly appointed proxy attends the videoconference in accordance with instructions provided by the Electoral Officer as part of the meeting notice;
  - (d) member delegates on the voters list and duly appointed proxies who are present at the meeting will be provided access to the Online Voting System; and
  - (e) casting a vote in a poll using the Online Voting System will be deemed to be a “secret ballot” for the purposes of the Bylaws and Governance Manual.
- V. The specific Online Voting System to be used in an election will be selected by the Electoral Officer in consultation with the Board, and must:
  - (a) incorporate an authentication system to confirm that voters are entitled to vote in the election and to restrict voting to one vote per member per poll;

- (b) ensure the secrecy of the vote; and
- (c) include security protocols and data and privacy protection measures that satisfy the Electoral Officer.

#### **Meeting to continue during online voting period**

- VI. The Electoral Officer will determine when and for how long online voting will be open to members during the meeting (the “**Online Voting Period**”), provided that notice of the Online Voting Period is provided to members as part of the meeting notice.
- VII. If at any time during the Online Voting Period there is no business being conducted other than online voting in the election, then at such times:
  - (a) the meeting is deemed to be in session; and
  - (b) quorum requirements are deemed to be satisfied.

#### **Election of Regional Chief**

- VIII. Section 10.39 does not apply to an election conducted in accordance with this Schedule.
- IX. If there are more than two (2) candidates for Regional Chief, a candidate will win the election with more than 50% of the vote determined according to an instant runoff voting system, which will employ the following:
  - (a) voters will have the ability to rank candidates in a single round of voting with a single ballot form within the Online Voting System;
  - (b) if a candidate receives more than fifty percent (50%) of the vote based on first-choices, that candidate wins; if a candidate does not receive more than fifty percent (50%) of first-choice votes, then, second and subsequent choices will be attributed according to a pre-determined method (“**Instant Runoff Method**”), which will determine the candidate deemed to receive more than fifty percent (50%) of the vote; and
  - (c) the Electoral Officer will set and record in writing the Instant Runoff Method at least fourteen (14) calendar days prior to the election and will make it available upon request to any member or candidate for Regional Chief up to seven (7) calendar days following the election.
- X. In the event of a tie, then the provision for a second or successive round of voting in section 10.40 will apply in accordance with directions that will be issued by the Electoral Officer.

### Scrutineers

- XI. A candidate in an election that is conducted in accordance with this Schedule is not required to appoint a scrutineer, but may do so at the same time the candidate accepts the nomination.
- XII. For an election conducted in accordance with this Schedule, the role and responsibility of a scrutineer is to:
  - (a) approve the voter list circulated by the Electoral Officer in writing and in advance of the Online Voting Period; and
  - (b) at the discretion and request of the Electoral Officer, scrutinize any or all of the following:
    - i. the Electoral Officer's verification that a member is "present" at the meeting and on the voters list;
    - ii. the making of an Electronic Record by the Electoral Officer; or
    - iii. other aspects of the conduct of the election as requested by the Electoral Officer.

### Counting the Votes

- XIII. For an election conducted in accordance with this Schedule, the Electoral Officer will confirm the final count of votes cast using the Online Voting System and will generate and make a secure electronic record of votes cast, the voters list, the identities of members who cast votes using the Online Voting System, and any other record the Electoral Officer deems appropriate (the "**Electronic Record**") to allow for verification of the voting and results of the election.
- XIV. The Electoral Officer will promptly announce the results of the election to members before the meeting is adjourned.
- XV. The Electronic Record made under section XIII will be delivered to BCAFN's head office, where it will remain for thirty (30) calendar days after the election or such longer period as a court of competent jurisdiction may order. The Electronic Record may be accessed and/or inspected only in the presence of legal counsel for BCAFN and legal counsel for each candidate in the election who requests to have legal counsel present (and for greater certainty, every candidate must be given the opportunity to have legal counsel present if the purpose of accessing the Electronic Record pertains to the election in which the candidate ran for office).
- XVI. The Electoral Officer will generate a final electoral report, including the results of the elections, sign it, and provide it to the Board within fourteen days (14) days of the date of the election for inclusion in the minutes of the meeting.

- XVII. No one may challenge the electoral results unless filing an appeal in accordance with the Bylaws.

### **Interpretation**

- XVIII. For certainty, in an election conducted in accordance with this Schedule:
- (a) the following sections of this Governance Manual do not apply:
    - (i) 10.19 to 10.24 [*Voting*],
    - (ii) 10.25 to 10.30 [*Counting votes*],
    - (iii) 10.34 to 10.36 [*Scrutineers*], and
    - (iv) 10.39 [*Electing the Regional Chief: Fifty Percent*]; and
  - (b) subject to paragraph (a), Article 10 [*Elections*] and Schedule “B” [*Duties and Responsibilities of Electoral Officer*] apply, unless there is a conflict with this Schedule, in which case this Schedule will prevail to the extent of such conflict;
- XIX. This Schedule is intended to be consistent with the Bylaws and the Bylaws continue to apply to an election conducted in accordance with this Schedule. To the extent that an inconsistency is identified between this Schedule and the Bylaws, the Bylaws will prevail to the extent of the inconsistency, and the remainder of the Schedule will continue to be valid and apply.