

THE NEW MEXICO TRANSPORTATION UNION CONSTITUTION

Preamble

The New Mexico Transportation Union is a public employee labor union formed and dedicated to the principles of democracy in the workplace. This union is obligated and committed to the effective representation of its members in collective bargaining, grievance proceedings, and other matters related to the welfare and benefit of its members and all those it represents. The primary goal and purpose of the Union is the solidarity of the membership, so as to develop and maintain the strongest possible bond among the workers who share the same interests and concerns in the workplace.

The Union shall be known as the New Mexico Transportation Union and its headquarters and primary location shall be Albuquerque, New Mexico.

The Union exists primarily to serve its members, in that the Union shall at all times strive to promote harmonious relationships among its members and those it represents, and shall attempt to resolve disputes among the employees, the employer, and the public, placing the best interests of the workers first and foremost in its concerns, to bargain effectively with the City on behalf of the members of the represented bargaining unit, and to address and attempt to resolve disputes among the bargaining unit members, supervisors, the Transit Department, and the City administration in the interest of the employees.

The Union is neither a charitable nor a political organization, and the selfish or individual advancement of the interests of any one or more of its members or any other person(s) has little or no place among the legitimate concerns of the Union.

This Constitution and the attached By-Laws, in their present form, are intended to govern and control the existing labor union, the New Mexico Transportation Union, in particular the entity also known as Local 911, representing City of Albuquerque bus and van drivers. This Constitution is subject to change and improvement, and the scope of representation under this Constitution may be expanded and extended to other employees, other local unions, and other matters and interests, subject to the limitations set out herein and as the need arises.

Article I - Membership

Employees eligible to join this Union include all City bus and van drivers, whether full-time or part-time, classified or unclassified, and including any temporary, seasonal, probationary, or other employees of the City of Albuquerque as are employed as public

employees and wish to join the Union, provided that they work within the appropriate areas within the jurisdiction of the Union and that the Chairman and Executive Board of the Union have approved such membership. It should be understood that the applicable rules, regulations, or ordinances may limit the representational ability of the Union.

It is anticipated, moreover, that in the future the Chairman, with the approval of a majority of the Union's Executive Board and the membership, as further set out herein, may issue new local union charters, authorize the enlargement or addition to existing unions, and invite other employee organizations, labor entities, or employee groups to join in the benefits and obligations of membership in the NMTU.

No person shall be a member or supporter of this Union and at the same time, another or competing union, unless the other union relates to other employment and is entirely unrelated to the activities and interests of this Union.

The Union membership shall consist of all members in good standing at the time of adoption of this Amended Constitution, plus any new members who join the Union in the future. Each new member of this Union shall complete an official application for membership. Every person employed in the bargaining unit within the jurisdiction of this Union shall be permitted to join the Union, except that every application must be approved by the Chairperson with the consent of the Executive Board. Any application may be rejected by recommendation of the Chairperson with the consent of the Executive Board for good reason. No person shall be considered a member until the person has been accepted for membership by the Chairperson with the approval of the Executive Board and shall have been sworn in as a member.

Any challenge to present or prospective eligibility for membership in the Union shall be resolved by the Chairperson, with the knowledge and approval of the Executive Board.

Article II - Amendments to Constitution or By-Laws

1. Constitutional Amendments

Amendments to this Constitution may be introduced in writing by any member for consideration of the members at any meeting of the general membership and shall be signed either by at least twenty-five union members or by the Chairperson with the approval of a majority of the Executive Board. The receipt or submission of any such Constitutional Amendments shall be acknowledged by the Chairperson and Executive Board and shall be introduced at one meeting of the membership, addressed and discussed

at a second meeting, and only adopted upon at least a three-quarters vote of the members present at a third meeting of the membership. At the discretion of the Chairperson, with the approval of the Executive Board, meetings to introduce, discuss, and/or vote on Constitutional amendments may be called as special or emergency meetings, provided that reasonable notice is given to the membership.

Any member may call for an amendment to this Constitution to be discussed by the membership at any membership or special meeting. However no amendment to the Constitution shall be valid or effective until and unless it is submitted in accordance with this section and it is voted on affirmatively by the required vote of the members present at a regular meeting of the membership.

2. New or Changed By-Laws

Additions or changes to the by-laws of the Union may be introduced in writing by any member for consideration of the membership at any meeting of the general membership or may be submitted by the Chairperson or any member(s) of the Executive Board. The receipt or submission of any such changes shall be acknowledged in the minutes of the meeting and shall be addressed and discussed by the membership. No such addition or change shall be effective, however, unless and until it is addressed and discussed at a subsequent meeting of the membership, and it is voted on by a majority vote of the membership at a third membership meeting. No more than one of the first two required membership meetings may be an emergency meeting, or a meeting called specifically for the purpose of discussing the proposed new or changed rule, rules or changes; the other two of the three required membership meetings shall be general meetings of the membership and the new or changed by-laws must be voted on and approved by a majority of members present at the third meeting, which shall be a regular meeting of the membership.

Any member may call for a change to the by-laws to be discussed by the membership at any membership meeting. However no change in the by-laws shall be valid or effective unless and until it is submitted in writing in accordance with this section and it is voted on affirmatively by the required majority vote of the membership at a general membership meeting.

3. Quorum

A quorum for the transaction of Union business shall be not fewer than ten (10) percent of the members of the Union, with the majority of members voting in favor for the proposal, resolution, or change to pass, except as described above when a three-quarter vote of the membership present is required. For vote on an amendment to the Constitu-

tion, the quorum necessary shall be thirty percent of the membership. Although matters may be discussed at any membership meeting, none of the required meetings to change the by-laws or amend the constitution count towards the required number of meetings unless a quorum is present at the start of the meeting.

Article III - Financial Matters

1. Bonding

The Chairperson and any officer having financial responsibilities shall be bonded at the expense of the Union for amounts to be determined annually by the Executive Board. In the event of a monetary loss resulting from the dishonest or other unlawful conduct of one or more officers or employees of the Union, and such loss is not fully compensated under the bond, the Union shall be authorized to initiate and prosecute legal action for the recovery of such amounts as were not recovered under the bond.

2. Financial Records

The financial books and other records of the Union shall be open to inspection at any time by any member(s) of the Union unless specifically denied by the Chairperson and a majority of the Executive Board for good reason. Such inspection may be made at reasonable times and places.

3. Reports

The Union Treasurer and/or Chairperson shall ensure that any financial reports required to be submitted to the membership shall be submitted in accordance with the Constitution or rules relating to the submission of financial reports and audits.

4. Audits

At least once each year, the Executive Board shall review and, when appropriate, send the financial records of the union to an independent auditor or accountant for review and the submission of a report to the Executive Board and membership. Such reviews or audits shall be conducted in accordance with generally accepted principles and procedures of accounting, administration, and management.

Prior to or during such review or audit, the Chairperson with the approval of the Executive Board may require that the Treasurer provide such financial reports and other information as may be needed to properly conduct the review or audit. Upon the comple-

tion of any such review or audit the Executive Board shall issue a report to the membership containing the findings of the review or audit. The report shall inform the membership of any deficiencies or improprieties and any actions needed to remedy such deficiencies or improprieties and recommended actions to improve the financial practices of the Union.

Should any officer(s) fail to permit, assist in, or cooperate with the required review or audit, the Chairperson and Executive Board shall take appropriate disciplinary action(s).

All financial records of the Union, including records of income and expenses, and records concerning any benefit or hardship program, shall be retained for a minimum of four years from the date of the record.

Article IV - Disciplinary Charges

1. Filing of Charges

Any member, the Chairperson, or the Executive Board may file charges for good cause shown against any other member, officer, or employee for actions taken as a member, officer, or employee of the Union by submitting a sworn and notarized statement of charges, including the grounds, as set out below, for the charge(s) and a summary of the evidence supporting the charge(s)

2. Good Cause for Charges

The following grounds shall constitute the sole and exclusive reasons for charges against a member, officer, or employee of the Union:

- a. Violation of any provision of this Constitution or of any officially adopted and approved rule of the Union.
- b. Misappropriation, embezzlement, or improper or illegal use of union funds.
- c. Any action by any officer or employee of the Union which results in the expenditure by the Union of money which is not for the benefit of the union or its membership, or which is not part of the union's representational obligations to its membership or the members of the bargaining unit represented by the Union, but rather is for the personal benefit or gain of any member, group of members, or others, which is not otherwise authorized by the Union and its membership.

d. Acting in collusion with management or another entity to the detriment of the welfare of the Union and/or its membership.

e. Any activity which assists and/or is intended to assist any competing organization or union and which has a detrimental effect on the Union and/or its membership.

f. Refusal or deliberate failure to carry out decisions of the membership, the Chairperson, or the Executive Board of the Union which has a detrimental effect on the Union and/or its membership.

g. Willful violation of a legally negotiated and approved collective bargaining agreement which has a detrimental effect on the Union and/or its membership.

h. Using or attempting to use the name of the Union in an unauthorized manner or for an unauthorized purpose which has a detrimental effect or causes damage to the Union and/or its membership.

i. Deliberately interfering with any official of the Union in the discharge of the official's duties which has any detrimental effect on the Union and/or its membership.

j. The solicitation or acceptance of a bribe or the acceptance of any gift of more than nominal value from any employer, member(s), or officer, or employee of the Union, or from any person or entity which has or is seeking to establish a business relationship with the Union.

k. Conviction of a crime, the nature of which brings the Union into disrepute or which has a substantial damaging or detrimental effect on the Union and/or its membership.

l. Knowingly submitting a false financial or audit report to the Union or its membership or knowingly and intentionally making any false financial report or statement to the Union and/or its membership.

3. Hearing of Charges

The Union's Executive Board shall hear and decide charges filed in accordance with the preceding section, provided however that charges against an officer or member of the Executive Board must be filed with the support of a majority vote of the membership and such charges shall be heard by a judicial panel appointed by and consisting of the

members of the Executive Board who are not charged with misconduct plus such other persons as are appointed by the Board or by the Chairperson with the approval of either a majority of the Executive Board or the membership, as appropriate considering the nature of the charges and the person(s) charged.

Charges shall be in writing and shall be signed and notarized by the member or members bringing the charges. The charges shall be specific, citing the nature, date and circumstances of the alleged offense(s) and, if a violation of any rule or this Constitution is alleged, the specific section or rule, along with a detailed description of the specific act of misconduct or omission which constitutes the alleged violation. Such charges shall be submitted to the Executive Board or a Hearing Committee as constituted in accordance with the previous paragraph, which shall then hear the charge(s) and decide the issue.

The Executive Board or Hearing Committee, upon receipt of charges, shall proceed to hear and decide the validity of any such charges in a timely manner. The Executive Board or Committee shall set the date, time and place for hearing the charges. If a request for a record is made by the affected party or parties to the charge, the record shall be made at the expense of the party requesting the record.

The accused party or parties shall have the right to file a written answer to the charges, the right to be tried within 60 days of the filing of charges, the right to confront and cross-examine the accuser(s), the right to present witnesses, the right to compel the production of union records relating to the issue being tried, the right to choose an open or closed hearing, the right to be represented by an attorney or any other person, the right to refuse to testify, and the right to be presumed innocent unless proven guilty.

The person or persons bringing the charge shall have the right to testify, the right to call witnesses and present evidence to support the charge(s), the right to cross-examine witnesses presented by the accused, the right to compel the production of records relevant to the issues being tried, and the right to choose a representative to present the case against the accused.

It shall be the obligation of the person(s) bringing charges to present the charge(s) in sufficient detail to afford the accused a full opportunity to prepare a defense, to appear at the hearing(s), and to produce and present evidence and testimony sufficient to meet the burden of proof to sustain any such charges brought.

4. Penalties

If the Executive Board or other Hearing Committee finds the accused guilty by a majority vote, any one or more of the following penalties may be assessed:

- a. Formal reprimand, accompanied by a formal warning against any repetition of the act of misconduct or omission.
- b. A fine in an amount not to exceed one year's dues, to be paid to the Union.
- c. Full or partial restitution, where the consequences of the offense can be measured.
- d. Removal from Union office.
- e. Suspension of membership or employment with the Union and/or the right to hold or seek any elected position or employment with the Union for a period not to exceed three years.
- f. Expulsion from membership or employment with the Union for a period not to exceed three years.

5. Charges Not Sustained

If the charges are not sustained and the Executive Board or Hearing Committee is convinced that the charges were not brought in good faith or were the result of malice or bad faith, the Board or Committee may impose such penalty as deemed proper and appropriate under the circumstances, subject to the same right to appeal to the membership as the right to appeal that is enjoyed by the party charged.

6. Appeal

If charges are sustained and the accused is found guilty under this section, an appeal may be taken within 30 days by submission of the case to the general membership, to be heard at a regular or special meeting of the membership. In order for the decision of the Executive Board or Hearing Committee to be overruled, two-thirds of the membership present must vote to overrule the charges, which shall stand in the absence of such vote.

If the charges are not sustained, and the charging party suffers a penalty as a result, the charging party may appeal the decision to impose penalties against the charging party to

the general membership, which may vote, again by a two-thirds vote of those present, to overrule the penalty assessed against the charging party. In the absence of such vote, the penalty shall be sustained.

7. Final Decision

Rulings by the Executive Board or other Hearing Committee pursuant to this article, shall include written findings of fact and conclusions relating to the charges and the defense to such charges. Any ruling by the Executive Board or other Hearing Committee, following the opportunity to appeal as described in this Article, shall constitute the final decision of the Union, and shall constitute full and final exhaustion of administrative remedies.

8. Extraordinary Action

Notwithstanding any other provision of this Constitution, the Chairperson shall have the authority to order the immediate suspension, pending investigation, of officers and employees of the Union, who in the opinion of the Chairperson are engaging in conduct threatening or dangerous to the welfare of the Union and/or its membership. In any such case, the Chairperson shall immediately submit such information and evidence he has of the threatening or dangerous activity to the Executive Board, which shall then meet to approve or disapprove of the Chairperson's action, subject to review and approval or over-ruling by the membership in the same manner as an appeal of a decision of the Executive Board. Such action shall not constitute the filing or hearing of charges as described in this Article, but shall determine only the status of the officer and/or employee in question.

Article V - Officers and Executive Board

1. Chairperson

The Chairperson shall be the chief executive and administrative officer of the Union and shall conduct the business of the Union in accordance with the Constitution and the direction and advice of the Executive Board. The Chairperson shall be responsible for securing and maintaining the office of the Union, and shall, with the approval of the Executive Board, employ and set the compensation of such staff, assistants, attorney(s), accountant(s) and other technical and professional persons as are required to effectively carry out the business of the Union and the duties of the Chairperson.

The Chairperson shall report regularly to the Executive Board about all official action taken on behalf of the Union.

The responsibility of the Chairperson may not be delegated, but the Chairperson may delegate such tasks and duties as the Chairperson deems necessary. The Chairperson shall authorize and sign all checks and shall authorize any and all expenditures of the Union, and shall be authorized to enter into such contracts and other agreements as are necessary to carry out the business of the Union.

Prior to the start of each fiscal year the Chairperson shall submit a proposed budget to the Executive Board, setting forth the anticipated income and expenditures of the Union. This budget shall be subject to revision and approval, with the concurrence of the Chairperson, by the Executive Board. The Chairperson shall have the final authority over the budget, but shall seek to the extent possible, to secure the approval of the Executive Board.

No officer, subordinate body, employee, or member of the Union shall have the authority or power to act as an agent or otherwise bind the Union except as specifically authorized by the Chairperson with the approval of a majority of the Executive Board.

The Chairperson shall be elected by a vote, to be held on or around September 30, every two years, commencing with September 30, 2006. In the event the Chairperson resigns or is otherwise unable to continue serving, the remaining four persons of the Executive Board shall promptly select by an affirmative vote of at least three of the four members, a person to serve as interim Chairperson and within 15 days thereafter a special election of the membership shall select a new Chairperson to carry out the remainder of the term of the Chairperson who is no longer serving.

2. Executive Board

The Executive Board shall be composed of the Chairperson and four elected Executive Board members. The Union Chairperson shall serve as the Chairperson of the Executive Board. Each member of the Executive Board, including the Chairperson, shall have one equal vote. The Executive Board members shall serve two-year terms, with all four members being elected on September 30, 2006, two to serve two-year terms and two to serve one-year terms, for which positions (one-year or two-year terms) shall be announced at the time of nominations. Thereafter, two Executive Board members shall be selected each year, at an election to be held on or around September 30 each year.

At least one position on the Executive Board shall be reserved for a representative of the van drivers and at least one position shall be reserved for a representative of the bus drivers.

The Executive Board shall be the highest policy-making and executive body in the Union, and along with the Chairperson it shall serve the Union by making policy and administrative decisions and acting as the hearing body as described above. The Executive Board will have authority to make binding interpretations of this Constitution, and the rulings and decisions made by majority vote of the Executive Board shall have full force and effect.

In the event an elected member of the Executive Board is unable to continue serving, the Chairperson shall promptly appoint an interim member of the Board and no later than 60 days after that appointment a special election by the membership, which may at the Board's option be held at a regular or special meeting of the membership, shall be conducted to elect a Board member to carry out the remainder of the term of the Board member who was unable to serve.

The Executive Board shall meet at least once a month. At least four of the five members of the Executive Board must be present at the meeting of the Board in order to constitute a quorum. Tie votes of the Executive Board will be decided by the Chairperson, whether or not the Chairperson was in attendance at the Board meeting at which the tie vote was taken.

3. Treasurer

The Union membership shall elect a Treasurer, who shall be responsible for all financial accounting and reporting as described herein and as assigned by the Chairperson with the approval of the Executive Board. The Treasurer will receive and keep records of all money received by the Union. Money of the Union will be disbursed only by the Treasurer and the Chairperson, acting jointly, and any checks of the Union will be co-signed by the Treasurer and the Chairperson.

The Treasurer shall serve a two-year term, to be elected by the membership at the same election each two years, commencing on September 30, 2006, and taking place each two-years thereafter, as the election to select the Chairperson and other officers. In the event a Treasurer resigns or is unable to continue serving for any reason the Chairperson shall select the replacement in the same manner as the other officers and the vote to select a new Treasurer shall occur within 60 days in the same manner as the other officers.

4. Secretary

The Union membership shall elect a Secretary, who shall be responsible for keeping minutes of each and every meeting of the membership and the Executive Board, and who shall perform such other and additional duties as are required and/or authorized by the Chairperson with the approval of the Executive Board.

5. Vice-Chairpersons

The Union membership shall elect two Vice-Chairpersons, one to be elected by bus drivers, the other to be elected by van drivers. These Vice-Chairpersons shall perform such duties as are required and/or authorized by the Chairperson with the approval of the Executive Board, and shall temporarily and jointly serve in place of the Chairperson in the event the Chairperson is unable to serve pending the election of a new Chairperson. If any Vice-Chairperson is unable to serve for any reason, the same provision set out above for appointment and vote for a new Secretary shall be utilized.

Article VI - Committees

The business of the Union, with the exception of the duties and responsibilities of the officers and Executive Board members set out above, and with the exception of the work of professional and administrative staff, advisors, consultants, and assistants, shall be carried out by committees comprised of members and officers of the Union, as described below.

In order to effectively carry out the business of the Union, the following Committees shall be constituted and maintained by the Union leadership:

1. Membership Committee - Responsible for recruiting and addressing matters concerning the membership of the Union. This Committee works to secure the maximum participation in the Union and to secure and keep Union membership at a high level of participation.

2. Grievance and Negotiating Committee - This Committee oversees the grievance and negotiating processes and reports on the status of grievances and negotiations to the membership. The Committee meets and approves the submission and prosecution of any grievance(s) on behalf of any member of the Union or the bargaining unit who shall request representation.

3. Hardship and Benefits Committee - The Committee is responsible for establishing and maintaining such hardship payments, death benefits, and other benefits as deemed appropriate and authorized by the Union leadership. This Committee will also be responsible for The Committee addresses concerns on both an individual and a general level.

4. Financial Committee - This Committee ensures the maintenance and reporting of financial data and information to the membership and oversees the finances of the Union.

5. Social Committee and Political Committee - The Social Committee proposes, plans, and effectuates social activities of the Union, including parties and other social functions; the Political Committee, which may be part of the same committee (or not) addresses political matters, including support for candidates and contributions.

6. Election Committee - The Election Committee oversees and ensures the integrity and operation of the elections and the electoral process of the Union.

7. Such Other and Additional Committees as are deemed necessary.

Committee members shall be appointed from volunteers and others selected by the Chairperson with the knowledge and approval of the Executive Board. Committees shall meet regularly to carry out their tasks and functions. Each Committee shall select a Chairperson for the Committee, and to the extent possible the Committee shall carry out its tasks and duties by consensus or by vote of a majority if consensus cannot be attained.

Committee members shall not receive compensation, but their importance and efforts should be acknowledged by the Chairperson, Executive Board, and membership. Although formal minutes are not required, reports from the Committees shall be a regular part of each and every membership meeting.

Committee members serve at the pleasure of the Chairperson with the approval of the Executive Board. Committee members may serve until replaced and although there is no fixed number of members on any Committee, to the extent possible members and officers should be appointed and should serve on Committees of their own choice.

Article VII - Miscellaneous Provisions

No member shall be eligible to run for or hold any office or position with the Union until the member has been a member in good standing for a period of one full year from the date they are sworn in as members.

No member shall initiate or prosecute any civil action or any action before any City board or in any court or other tribunal outside the Union unless and until all internal Union process has been fully and finally exhausted.

This Constitution, as interpreted by the Chairperson and members of the Executive Board, shall constitute the primary document establishing the policies and procedures of the Union. In the event any portion or provision of this Constitution is deemed invalid or unlawful by any court of competent jurisdiction, that provision shall be stricken from the Constitution, but the remaining parts of this document shall remain in full force and effect.

Any and all other matters of Union business, policy, and practice not specifically included or addressed in this Constitution shall be determined by the membership of the Union, the Chairperson, and the Executive Board in the form of by-laws pursuant to the procedures set out in Article II, Section 2, of this Constitution.

This Constitution shall take effect immediately upon the final vote of the membership taken in accordance with the Constitution then in effect approving the Constitution and the signing of the Constitution by the Chairperson of the Union.

This Constitution was passed by a vote of _____ in favor to _____
opposed at a scheduled meeting of the membership on _____

Interim Chairman