

**REPORT OF THE  
CONSTITUTION COMMITTEE  
TO THE  
78<sup>th</sup> CONVENTION**

The Constitution Committee met via Zoom beginning August 19, 2021, for the purpose of reviewing and considering proposed amendments to the CWA Constitution.

The Constitution provides under Article XVI, Section 2, that the Constitution Committee is “charged with the duty of considering and reporting to the Convention and to the Executive Board on proposals to change the Constitution.” Article XXVIII, Section 2 & 3, provides that amendment’s submitted to the Constitution Committee sixty (60) days or more in advance of the Convention will require a majority vote of the Delegates present to be enacted. All other amendments to the Constitution proposed at the Convention shall require a three-fourths (3/4) vote of those voting to effectuate such proposed amendments, but in no event shall the three-fourths (3/4) vote of those voting thereupon be less than a majority vote of the approved delegates at the Convention.

This report sets forth all proposed amendments that have been received by the Committee to date. A strikeout denotes deletion of language; **boldface and underlined** type denotes insertion of new language. Each proposal in this Preliminary Report will require a majority vote of the delegates at the Convention to be enacted.

**1. Amend Article XIII, Section 9 (n) to add a new Section (n):**

**(n) To furnish to the Secretary-Treasurer of the Union with timely notice anytime the U.S. Department of Labor initiates an audit or any other type of review of the Local's finances;**

**Renumber current (n) through (u) to (o) through (v).**

(Submitted by Secretary-Treasurer Sara Steffens)

This amendment requires a Local to notify the Secretary-Treasurer's Office anytime the Department of Labor (DOL) initiates an audit or other review of a Local's finances. The reason for this proposal is that when audits are initiated by the DOL, Locals often call upon the Secretary-Treasurer's Office for assistance and advice on how to handle the audit. The earlier that the Secretary-Treasurer's Office has notice of the audit and can become involved in the process, the better and easier it is to provide helpful assistance. For example, the DOL will usually ask the Local for all of its financial records (financial statements, bank statements, checkbook registers, and copies of checks), but the DOL will not accept copies of such records because it wants the originals. The DOL will usually ask for these documents on the first day of the audit. Therefore, the Secretary-Treasurer's advice to Locals has been to make copies of at least the current financial records in advance of the DOL coming into the Local. These copies would be kept by the Local itself. This allows the Local to continue to do business and know what the Local's financial picture is.

In addition, the DOL usually contacts the National Union to obtain records of dues rebates, lost time payments, or other payments from the National Union to the Local. Early notice that a Local is under audit will make it easier for the National Union to comply with those requests in a timely fashion.

**The Committee Recommends Adoption of this Proposal.**

**2. Amend Article XV, Section 1 – Union Officers**

The President and Secretary-Treasurer of the Union shall be elected separately by ~~secret ballot~~ of the delegates to the Convention following nominations made from the floor of the Convention. Beginning with the election of 2011, the term of office shall be four years or until their successors have been duly elected and qualified.

**Amend Article XV, Section 2 – Vice Presidents**

(a) District Vice Presidents shall be elected, ~~by a secret ballot~~, after nominations from the floor, at a meeting of delegates from the District. Beginning with the 2011 CWA Convention, there shall be elected a Telecom and Technology Vice President for AT&T Legacy T, Avaya, Alcatel-Lucent (d/b/a Nokia), OFS and those bargaining units of telecommunications employees other than AT&T, Verizon,

Qwest (d/b/a CenturyLink) and their subsidiaries and affiliates. The Telecom and Technology Vice President, and the Public, Health Care and Education Workers Vice President shall be elected ~~by secret ballot~~, after nominations from the floor, at meetings of delegates representing members of AT&T Legacy T, Avaya, Alcatel-Lucent (d/b/a Nokia), and OFS and **other** affected telecommunications bargaining units and Public, Health Care and Education workers units respectively.

(b) The duly elected President of the TNG-CWA Sector shall be the TNG-CWA Sector Vice President and shall be elected in accordance with the CWA Constitution and the merger agreement. The duly elected NABET-CWA President shall be the NABET-CWA Sector Vice President and shall be elected by delegates representing NABET-CWA members in accordance with the CWA Constitution and NABET-CWA Sector Bylaws. The duly elected President of the IUE-CWA Division shall be the IUE-CWA Division Vice President and shall be elected in accordance with the IUE-CWA Rules and the CWA Constitution. The duly elected President of the AFA-CWA Sector shall be the AFA-CWA Sector Vice President and shall be elected in accordance with the AFA-CWA Rules and the CWA Constitution.

(c) Beginning with the election of 2008, each At-Large Diversity Executive Board Member shall be elected by ~~secret ballot~~ of the delegates to the Convention, following nominations made from the floor of the Convention. Beginning with the elections held in 2011, the term of office for At-Large Diversity Executive Board Members shall be four years. No candidate shall be permitted to run for more than one of the four At-Large Diversity Executive Board seats. A candidate for an At-Large Diversity Executive Board seat must hold their membership within the region represented by that seat.

(d) Beginning in 2011, the term of office of Vice President shall be four years or until their successors have been duly elected and qualified.

(e) In the event a vacancy occurs in the Office of Vice President or At-Large Diversity Executive Board Member for any reason, an election shall be held at the next regular Convention for the purpose of electing a Vice President or At-Large Diversity Executive Board Member to fill the unexpired term.

(Submitted by National Officer Election Review Committee, herein referred to as the "Review Committee")

At the 77th CWA National Convention, delegates expressed concerns that the 2019 CWA National Officers election process was painfully slow, inefficient, and outdated.

President Shelton commissioned the formation of the CWA National Officer Election Review Committee, which was tasked with reviewing the election process and deciding whether an electronic or other election process was feasible. The Review Committee was also tasked with finding a way to correct the problem with the process and bring it up to date. The problems are obvious: time consuming voting processes and counting processes, delayed run-off elections and delayed reporting of results. The remedy is equally obvious: electronic voting, whereby

the voter casts his or her ballot electronically, on a computer, tablet, or cell phone.

It must be made clear that an electronic National Officers election process would not be what the U.S. Department of Labor (DOL) currently defines as a “secret ballot” election. In the DOL’s current view, an electronic election is not a “secret ballot” election because the vendor who administers the election might have the ability to track a voter’s PIN number or voting identification number and, therefore, be able to match a vote with a voter. In the DOL’s current view, it does not matter that the vendor would be the only entity with the ability to track votes. However, more recent developments in electronic voting make it impossible to match a vote with a voter. While those systems may ultimately be acceptable to the DOL, CWA needs to act now to amend our Constitution in order to have those amendments be effective before the next election of National Officers.

The Labor Management Reporting and Disclosure Act, the federal law governing union elections, does not require elections of National Officers to be by secret ballot. The alternative is to remove the “secret ballot” requirement from the Constitution and move to electronic voting. In electronic voting, voters are given a unique voter identification number/PIN number, which a voter uses to log on to the electronic voting system. This electronic voting system allows a voter to vote on a computer, tablet, or cell phone. The vote can be cast in private, at the convenience of the voter (within a predefined time frame), with the same privacy as now afforded by a “secret ballot.” That is, no one within CWA would be able to match a vote with a voter. While some voting systems allow the vendor to be able to match the vote with a voter (with much effort on the part of the vendor), more recent voting systems have been developed where there is no way in which to match a voter with a vote, because the PIN number or voter identification number is disassociated from the voter when the voter casts his or her ballot.

The Review Committee recognizes the current processes are inefficient and therefore recommends that the secret ballot provision be deleted and CWA move to electronic voting.

In addition to recommending these constitutional amendments, the Review Committee submitted a resolution to the Convention Rules and Resolutions Committee, to implement the proposed amendment and move to contracting with an electronic voting vendor.

### **The Committee Recommends Adoption of this Proposal.**

The Safer NewsGuild working group submitted a collection of six proposed amendments (numbers 3, 4, 5, 6, 7, and 8) to the CWA Constitution Committee related to the CWA Policy on Mutual Respect, harassment in the union, and the process for charging and trying members accused of misconduct. This Committee is recommending some, but not all, of the proposed amendments, and therefore addressed each individually.

**3. Amend Article III to add a new section (f):**

**(f) To fight discrimination and harassment in all its forms, through the incorporation of the CWA Policy on Mutual Respect into this Constitution.**

(Submitted by the Safer NewsGuild working group)

The CWA Policy on Mutual Respect was initially adopted by the Executive Board of the National in 2002, and is the Union’s guiding language on the topics of discrimination and harassment. But the Policy is not currently mentioned in the body of the Constitution, nor are the words “discrimination” or “harassment.” Adding the new section (f) to Article III, which outlines the objectives and priorities of our Union, would make clear to all members that the work of fighting discrimination and harassment is a core tenet of our shared mission. It would also formally incorporate the language of the Policy into the body of the Constitution itself, lending transparency and strength to its meaning in our Union.

**The Committee Recommends Adoption of this Proposal.**

**4. Amend Article XIX, Section 1 to add a new subsection (i):**

**(i) Violating the CWA Policy on Mutual Respect by acting in a discriminatory or harassing way.**

**Renumber current subsection (i) to become (j).**

(Submitted by the Safer NewsGuild working group)

As mentioned above, the CWA Policy on Mutual Respect was initially adopted by the Executive Board of the National in 2002, and is the Union’s guiding language on the topics of discrimination and harassment. However, the words “discrimination” and “harassment” do not currently appear in the body of the Constitution, including in Article XIX, Section 1, which outlines the types of offenses that violate the Constitution and are therefore chargeable under the trial board process for holding officers and members accountable. Though the Constitution already allows for a member to be charged with violating the CWA Policy on Mutual Respect, this proposed amendment would explicitly categorize discrimination and harassment as a clear and chargeable offense. The intent of this Constitutional amendment is to make clear that discriminatory and harassing behavior is unacceptable in our Union, and that anyone who behaves in such a way will be held accountable for their actions. It is also meant to eliminate ambiguity for any member who has experienced discrimination or harassment in the Union and wishes to seek recourse through the trial board process.

**The Committee Recommends Adoption of this Proposal.**

**5. Amend Article XX, Section 2 (b) to add new language:**

(b) Charges must be submitted within sixty (60) days of the time the accuser becomes aware of the alleged offense. **The accuser can be a victim of the offense(s), a witness to the offense(s) or someone who learned of the offense(s) after the alleged occurrence.**

(Submitted by the Safer NewsGuild working group)

This amendment is intended to clarify language that already exists in Article XX of the Constitution, which outlines the appropriate procedure for filing charges against a member of the Union. The existing language mandates that charges be submitted within sixty (60) days of the time the person filing the charge, called the accuser, or becomes aware of the alleged offense. However, the current language does not clearly define who qualifies as an accuser, which is not limited to the victim of the offense, including and especially in allegations of discrimination or harassment. A witness to misconduct also is empowered under the Constitution to file charges, as is someone who learned of the allegations after the fact. This has always been the way the CWA Constitution has been interpreted. This amendment would state explicitly in the Constitution what is the existing practice.

**The Committee Recommends Adoption of this Proposal.**

**6. Amend Article XX, Section 3 (a) to add new subsection (2).**

**(2) A trial coordinator, who is a member of the Local, shall be appointed by the governing body of the Local to oversee the trial process as soon as charges are filed. The duties of the trial coordinator shall include answering procedural questions from the accused, the accuser and other involved parties. The trial coordinator shall also serve as liaison between the Local and the Union.**

**Renumber current (2) through (8) to (3) through (9).**

(Submitted by the Safer NewsGuild working group)

The Committee discussed this proposed amendment at length with a representative of the Safer NewsGuild working group. The intent of the proposed amendment is to create a clear, unbiased administrative role within the trial process that would help bring order to the proceedings. It also would create another layer of protection and transparency, particularly in a situation in which an elected officer or member of the Local's governing body is accused of misconduct.

Though the Committee recognizes and appreciates the goal of the proposed amendment, the Committee had concerns about the language as written for a variety of reasons.

The CWA Constitution is intended to be the floor for rules and guidelines within the Union. All members are governed by the trial process outlined in the Constitution, but Sectors and Locals within the Union can build upon that floor in their own Sector Constitutions and/or Local Bylaws. The Committee believes that a trial coordinator position could serve the needs of some, but not all Locals, and if adopted as written could unintentionally create confusion about the requirements.

The Committee also raised concerns that creating a trial coordinator position — and therefore taking administrative power over the process from the Local's governing body — could create unnecessary liability and a lack of accountability. The Local's governing body is democratically elected, but a trial coordinator would be appointed.

While the Committee understands the intent behind this proposal, it concluded that the language as written does not adequately or clearly define the duties of the position. The Committee acknowledges that the proposed amendment lacks a clear and concise delineation of duties, a specific reporting structure to the Local's governing body, and a roadmap for education and training on the trial process for the trial coordinator. For this reason, the Committee believes the proposal as written is deficient.

**The Committee does not recommend Adoption of this Proposal.**

**7. Amend Article XX, Section 3 (a) to modify existing subsection (4).**

(4) The accused shall have the right to select a member of the Local as counsel, the right to produce witnesses and present documentary evidence and to be heard on the accused's own behalf. The accused shall have the opportunity to cross-examine witnesses; **In cases alleging violations of the CWA Policy on Mutual Respect, questions the accused wants placed before the accuser will be presented by the local member serving as counsel to the accused, or, if no member is serving as counsel to the accused, by another member of the local. This is intended to avoid the accused directly questioning the accuser.**

(Submitted by the Safer NewsGuild working group)

The Committee discussed this proposal at length with a representative of the Safer NewsGuild working group.

This amendment is intended to avoid the accused directly questioning the alleged target of the harassment or discrimination. The Committee recognizes that the intent was included in the proposed amendment; however, statements of intent are generally not included in the Constitution.

Although the Committee agrees with the intent of the proposed amendment, the Committee had concerns with the language as written. This language would not

entirely prevent a scenario in which the accused is personally questioning the alleged target. Accusers can be members who are witnesses or have become aware of alleged violations of the CWA Policy on Mutual Respect, creating a paradigm where the alleged target could still be a party to the trial, but not in the capacity as the accuser.

This amendment also does not specify how an individual member would be selected to act as the questioner on behalf of the accused. The ambiguity in this portion of the proposed amendment could create confusion to the trial process.

**The Committee does not recommend Adoption of this Proposal.**

### **8. Amend Article XX, Section 3 (a) to add new subsection.**

**When a member is convicted of violating the CWA Policy on Mutual Respect, a record of their conviction will be submitted by the Local Secretary or Secretary-Treasurer to the CWA Secretary-Treasurer.**

(Submitted by the Safer NewsGuild working group)

The Committee discussed this proposal with a representative of the Safer NewsGuild working group.

This amendment would create a record of convictions that arise from violations of the CWA Policy on Mutual Respect. As written, this proposal does not make clear what the Secretary-Treasurer would be expected to do with the additional paperwork and who would have access to it. Though the Committee agrees with the intent of the amendment — which is to prioritize the safety of members — it concluded the language is incomplete and not ready for consideration by the delegates.

**The Committee does not recommend Adoption of this Proposal.**

### **9. Amend Article XII, Section 5**

Section 5 – Telecom and Technology Vice President

For those bargaining units of Telecommunications **(ADT, AT&T (Legacy T), Avaya, Lumen Technologies (and any d/b/a), Frontier, Nokia, OFS (Atlanta & Sturbridge), and Windstream)** employees other than AT&T, Verizon, Qwest (d/b/a CenturyLink **Lumen**) and their subsidiaries and affiliates. The Telecom & Technology Vice President shall be responsible, under the direction of the Executive Board, for **supervising and approving the negotiations of all contracts, processing of grievances,** coordinating matters of common concern and interest with respect to contracts, wages, hours of employment, and other working conditions within the units **of its jurisdiction as determined by the Executive Board.**

- **The Telecommunications and Technology office shall be the primary source of notification for any matters that require employers to provide union-level notice.**
  - **The T&T office shall have general counsel review any employer notifications for any legal issues (state or federal) before communication to the locals.**
- **Each employer covered by the T&T office shall have one staff representative assigned from within the T&T office to negotiate all contracts across that employer. This will allow for a better synergy of negotiations from local to local.**
- **One or more representatives can be designated at the District level as Telecom and Technology representatives to process grievances above the local level.**

The Telecom & Technology Vice President shall be responsible for bargaining in those bargaining units which are system-wide or national in scope as determined by the Executive Board.

(Submitted by Wes Kirby - President CWA 3176)

The Committee discussed this proposal with Wes Kirby, the President of CWA Local 3176 and with Telecom and Technology Vice President Lisa Bolton. Wes Kirby indicated that he is making this proposal in order to correct what he views as a deficiency in the manner in which CWA operates in the telecom and technology arena.

The T&T Office is responsible for bargaining several contracts in bargaining units within its jurisdiction but, for the non-Bell “independent” contracts, for example Lumen, bargaining, grievance handling and arbitration have always been the responsibility of the Districts. In addition, discipline grievances for bargaining units for which the T&T Office does bargain, for example, Legacy T, are generally handled by the District in which they arise. Over the years, there has been increased collective bargaining coordination as outlined in Article XVII, Section 3 - Bargaining Councils in Telecom. This section includes the role of bargaining councils, the designation of National items, and review of all potential tentative agreements by the Telecom District/Sector Vice Presidents.

The Committee understands and appreciates that some Locals may not have a clear and concise understanding of the responsibilities set forth in Article XII, Section 5, of the Constitution or the historical division of responsibilities. However, the proposed amendment, as written, diverts responsibilities from the District Offices to the T&T Office. This movement of work — without additional staff, resources, and guidelines — would present numerous logistical and efficiency impediments. Assigning one staff representative out of the T&T Office to conduct all bargaining for the same employer would be virtually impossible. Vice President Bolton advised this Committee that some of the employers have almost 20 different contracts, which is an impossible workload for any single staff representative. Vice President Bolton also advised the Committee that her office conducts monthly conference calls for each bargaining unit for which the T&T

Office has responsibility so that Locals and staff can discuss the issues facing that particular bargaining unit.

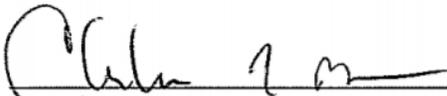
The Committee believes this amendment as written does not solve the problems identified regarding the current flow of information and coordination. Moreover, the Committee has concluded that this proposed amendment poses more problems and logistical issues than it resolves. Finally, Article XVII, Section 3 of the Constitution already requires coordination and approval of bargaining issues and addresses the concerns.

**The Committee does not recommend Adoption of this Proposal.**

Respectfully submitted,



\_\_\_\_\_  
Ryan Letts, Chair, President, CWA Local 4034



\_\_\_\_\_  
Christopher Ryan, President, CWA Local 1123



\_\_\_\_\_  
Debbie Media, President, CWA Local 7777



\_\_\_\_\_  
Chad Barnhill, President, CWA Local 6012



\_\_\_\_\_  
Katie Mettler, Vice President, CWA Local 32035