

AMENDED AND RESTATED BYLAWS **National Council of Agricultural Employers**

Formed as a nonprofit organization in 1964, the National Council of Agricultural Employers (NCAE) is the national trade association focusing solely on the interests and issues of agricultural employers. NCAE is dedicated to the belief that the future success of U.S. agricultural production depends on rational federal legislative and regulatory policies that facilitate predictable availability of domestic and foreign agricultural labor. NCAE membership is open to growers, employers, associations, cooperatives, corporations, processors and others involved in labor-intensive agriculture in all 50 states.

ARTICLE I - NAME

The name of this corporation shall be National Council of Agricultural Employers and is hereinafter referred to as the "Council," or, "NCAE."

ARTICLE II - OFFICE

Section 1. Location The principal offices of the Council shall be established at such places as the Board of Directors (hereinafter, the "Board") shall direct.

ARTICLE III - OBJECTS

Section 1. Purpose

The objects of the Council are:

- a.) To unite in common organization those engaged in the production, handling or processing of United States agricultural (including horticultural) commodities or products and others whose business welfare depends upon the economic efficiency and well-being of United States domestic labor-intensive agricultural production.
- b.) To promote the common business interests of its members, to improve the position and image of United States agriculture as an employer of labor and to facilitate and encourage the establishment and maintenance of favorable legal, regulatory, and political conditions whereby an adequate force of agricultural employees will be available for agricultural employment in the United States. NCAE provides education and technical information and guidance to its members for the improvement of the industry.
- c.) The corporation is not organized for profit, and no part of the net earnings of the corporation shall inure to the benefit of any private shareholder or individual.

ARTICLE IV - MEMBERSHIP

Section 1. Membership

Membership of the Council shall be comprised of individuals and organizations whose principal operation is the production of labor-intensive agricultural commodities or products within the United States, and grower, trade or commodity associations whose members are engaged in the production, handling, or processing of labor-intensive agricultural commodities or products within the United States; and, individuals and organizations whose business welfare is affected by the economic well-being of United States labor-intensive agriculture.

Section 2. Membership Categories

Membership of the Council shall consist of the following categories with attendant qualifications and rights to be determined by these Bylaws and the Board:

- a.) Associate
- b.) Subscriber
- c.) Supporter
- d.) Benefactor
- e.) Patron
- f.) Leader

Section 3. Membership applications

- a.) Applications for membership shall be directed to the President & CEO.
- b.) Application for membership must be completed in full before it will be considered by the Council.
- c.) Applications for membership shall be accompanied by a dues payment in full for the current year or pro-rata portion thereof remaining for the category of membership being applied for by the prospective member.
- d.) All applications for membership shall be subject to approval of the Executive Committee. The Executive Committee or Board may recommend that an individual be denied membership in the Council for conduct contrary to the objectives of the Council or by the failure of an applicant to satisfy the relevant membership requirements established by the Board, pursuant to procedures that the Board may establish from time to time. Such procedures shall provide the affected applicant with reasonable notice of the Board' or Executive Committee's recommendation, the right to participate in a hearing before the Executive Committee, and the right to appeal an adverse decision to the Board.
- e.) All applicants for membership in the Council shall attest that they are currently in compliance with all state and federal criminal laws and shall agree to abide by all state and federal criminal laws while a member of the Association. The Association may terminate the membership of any member convicted of violating any state or federal criminal law.

Section 4. Member voting rights; Associate Members

- a.) Except as hereinafter provided, all members in good standing (excepting members in the Associate category) shall be entitled to vote and be qualified to hold office. Specifically, members have the right to vote and elect directors as prescribed herein and to approve major corporate transaction such as mergers, dissolutions, and the sale of substantially all of the organization's assets. Each voting member may designate a representative who shall act and vote on behalf of that member.
- b.) Associate members shall have no voting rights. Associate membership shall be available to individuals or firms, such as service providers or supply and distribution chain partners whose business welfare is affected by the economic status of the United States labor-intensive agriculture industry.

Section 5. Resignation

- a.) As long as its current dues have been paid, any member may withdraw from membership by submitting its written resignation to the Council's principal office. Resigning members shall not be entitled to a refund of any portion of the current year's dues.

Any member may resign by filing a written resignation with the secretary. Resignation shall not relieve a member of unpaid dues, or other charges previously accrued. Resigning/Terminated members shall not be entitled to a refund of any portion of the current year's dues.

Section 6. Suspension or expulsion

a.) Except as otherwise provided in herein, any member may be suspended or expelled upon a two-thirds vote of present and voting members of the Executive Committee at a duly called meeting at which a quorum is present for any cause deemed sufficient. Any suspension or expulsion recommended by the Executive Committee shall be done pursuant to procedures that the Board may establish from time to time. Such procedures shall provide the affected applicant with reasonable notice of the Board recommendation, the right to participate in a hearing before the Executive Committee, and the right to appeal an adverse decision to the Board.

b.) A member shall be automatically suspended for failure to pay current annual dues in full before June 1, such suspension to terminate automatically when said dues are paid in full. Such automatic suspension shall not preclude the suspended member from becoming a member again in a subsequent year under the provisions of Section 3 of this Article without the necessity of paying delinquent dues for prior years however re-joining members must pay one full year's dues with request for re-instatement.

Section 7. Non-Voting Membership

a.) The Board shall have the authority to establish and define non-voting categories of membership.

ARTICLE V - DUES

Section 1.

- a.) The Board shall have the power to set the amount of dues required by each category of membership annually.
- b.) The dues year shall be the calendar year. Dues shall be payable to the Council in advance of the start of each applicable calendar year.
- c.) A new member joining the Council mid-year may pay pro-rated dues based on the month of the calendar year in which a membership application is accepted and dues are paid.

ARTICLE VI - MEETINGS OF MEMBERS

Section 1. Annual Meeting

There Council shall have be an annual meeting of the members each calendar year. The specific date, time, and location of which shall be designated by the Chairman. At the annual meeting, the members shall, when necessary, participate in elections and receive reports on the activities of the Council. Notice of not less than sixty (60) days prior to the date of the meeting shall be provided.

Section 2. Special Meetings

Special meetings of the members may be called by the Chairman, the Board or at the written request of one-third of the members in good standing by written notice stating the place, day, hour and purpose of the meeting mailed not less than thirty (30) days before the date of the meeting.

Section 3. Notice

Written notice shall be provided within the timelines set forth for the respective meeting. For all purposes, written notice includes e-mail sent to the member address on file as part of the member data-base and updated each year at dues renewal or upon notification of contact information change by the member to NCAE.

The attendance of a member at any meeting shall constitute a waiver of notice of such meeting, except where the member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 4. Quorum

One-tenth (1/10) of the voting members of the Council shall constitute a quorum for a meeting of members.

Section 5. Voting

All issues to be voted on shall be decided by a simple majority of those present and entitled to vote at the meeting in which the vote takes place and a quorum is present.

Any matter which is to be put to a vote of the members may properly be brought without a meeting of the members by mail ballot, telephone call, electronic mail, or any other means of electronic or telephonic transmission; provided, that the member shall state, or submit information from which it can be determined, that the method of voting chosen was authorized by the member. The decision arrived at by return of ballots shall be considered the official action of the members provided the total number of marked ballots received and counted equals or exceeds the number of persons required to be in attendance at a meeting of members for transaction of business.

Section 6. Rules of Procedure

Except as otherwise provided by law, the Articles of Incorporation, these Bylaws, and the Board, the rules of procedure at meetings of the members of the Council shall be according to Robert's Rules of Order.

ARTICLE VII - BOARD OF DIRECTORS

Section 1. General Powers

The affairs and business of the Council shall be conducted, managed and controlled by its Board of Directors (collectively "Board" and individually "Director"). The Board shall have control of and be responsible for the management, affairs, and property of the corporation, the members of which shall be not less than three in number and shall be members or the designated representatives of members of the Council. Except as otherwise set forth herein, no membership vote or other action shall serve to repeal a Board action, nor shall any membership vote or other action serve to compel action by the Board.

Section 2. Number, Tenure, Requirements, and Qualifications

The Board shall have no less than three (3) in number and shall consist of members or the designated representatives of members of the Council.

The Board shall be made up of:

- a.) All elected Officers, immediate past Chairman, and Chairs of the three (3) permanent standing Committees. All elected Officers shall qualify to serve as members of the Board by virtue of being an Officer. Officers shall serve as Directors for so long as the continue to serve as Officers.
- b.) One Director for each State of the United States in which the aggregate annual dues paid by members in such State amount to \$3,000.00 or more ("First State Director"). First State Directors shall serve for a term of three (3) years and shall be elected by the applicable

State's membership. An Alternate Director ("Alternate Director") shall be elected for each First State Director and serve for a corresponding term of three (3) years. An Alternate Director shall be entitled to vote only in the absence of the Director in which the Alternate represents. Alternate Directors shall be invited to attend all meetings of the Board and have privilege of the floor. In no event shall there be more than four (4) collective Directors from one state under Article VII, Section 2, subsections (b), (c), (d), and (e).

- c.) One additional Director for each State of the United States in which the aggregate annual dues paid by member in such state amount to \$10,000 or more ("Second State Director"). Second State Directors shall serve for a term of three (3) years and shall be elected by the applicable State's membership. An Alternate Director ("Alternate Director") shall be elected for each Second State Director and serve for a corresponding term of three (3) years. An Alternate Director shall be entitled to vote only in the absence of the Director in which the Alternate represents. Alternate Directors shall be invited to attend all meetings of the Board and have privilege of the floor.
- d.) To ensure that all members are represented; if annual aggregate dues in a state where NCAE members reside is less than \$3000, those members shall be combined with an adjacent state, or grouping of up to three contiguous states, with the closest annual aggregate dues for the purpose of voting for and electing a First State Director and an Alternate Director even if the grouped state's aggregate dues combined do not total \$10,000. In these cases, the members from all states in that group ("State Group") are eligible to be elected as the First State Director or Alternate Director. The term and voting rights for First State Director and the Alternate Director for said State Group(s) shall be as set forth in Article VII, Section 2, subsection (b) and (c).
- e.) Additional Directors selected by the Board ("Additional Directors") so long as such Additional Directors do not cause the total number of Board seats to exceed 25. Additional Directors shall serve for a term of three (3) years.
- f.) All current and active members who qualify for the Leader membership category ("Leader Category Directors"). Leader Category Directors shall qualify to serve as members of the Board by virtue of qualifying for the Leader Membership category. Leader category Directors shall continue to serve as Directors for so long as they qualify for the Leader membership category.
- g.) Any state or states combined under Article VII, Section 2, and (f) must have a minimum of two (2) dues paying members to be eligible to be represented by a Director.
- h.) Elected Directors have a responsibility to participate in Board meetings; therefore, any elected Director who is absent from 3 consecutive called Board meetings without prior approval from the Chairman shall become an Alternate Director and the Alternate Director shall become the Director for that state, or state grouping.
- i.) Implementation. Since state membership numbers and totals may change from year to year, Directors and Alternates will retain duly-elected three year terms until their terms expire even if re-apportionments indicate otherwise for future years; unless they resign or are removed from membership.

The term of any Director, regardless of category shall end if said Director's dues are not current. The Board will address vacancies in accordance with policy.

Section 3. First State Director, Second State Director, Alternate Director Voting

- a.) Voting for First State, Second, State, and Alternate Directors is generally, though not required to be, done via mail/e-mailed (at the Chairman's discretion) ballot on or about September 15 for the following year.

- b.) When the vote is to be done via mail/e-mail ballot, the Council office shall send nomination requests to all voting members in good-standing in the applicable State or State Group in which the voting is to take place at said member's most recent mailing or e-mail address on file with the Council. The nomination request shall identify the number of open seats and as for corresponding nominations.
- c.) The written request shall also identify, among other things, the deadline by which all nominations must be received by the Council office, which shall in no event be less than five (5) working days.
- d.) To be qualified as a valid nomination, the nomination responses must be timely and come from a voting member in good-standing.
- e.) The nominations will be determined based upon the person(s) with the most nominations and the corresponding open seats and who are also members in good-standing and willing to serve said capacity.
- f.) Thereafter, on or about November 15, ballots will be sent via mail/e-mail (at Chairman's discretion) to the most recent mailing/e-mail address (at Chairman's discretion) of each voting member in the State or State Group in which the voting is to take place.
- g.) Executed ballots must come from members in good-standing within the applicable State or State Group and be returned via fax or e-mail to the fax number or e-mail address identified on the ballot for tabulation no later than fifteen (15) working days following the date said ballots were sent by the Council to the members.
- h.) Candidates with the vote totals will be elected to First State, Second State, and then Alternate Directors as applicable to each State and State Group.
- i.) In the event of a tie, the Board shall determine the election results. The Chairman shall certify the results of said election to the Executive Committee and shall cause each person elected to the Board to be notified later than the 31st day of December.
- j.) Elected Directors shall hold office until their successors shall have been elected and entered upon their duties. Director terms officially begin at the Annual meeting at the same time as the terms for Officers commence.

Section 5. Annual Meeting

- a.) The annual meeting of the Board shall be the first meeting held after January first of each year. There shall be at least one full Board meeting each year. All other meetings of the Board may be fixed by resolution of the Board or held upon call of the Chairman. Such call shall be by notice in writing, or electronic mail, or mailed to each member of the Board not less than ten (10) working days before the date of such called meeting. Any and all business may be transacted at any meeting of the Board.
- b.) The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.
- c.) No Director shall be permitted to vote by proxy. To the extent permitted by applicable law, any person participating in an annual meeting of the Board may participate by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to simultaneously hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting.

- d.) Any action required to be taken or which may be taken at a meeting of the Board of Directors may be taken without a meeting if a written consent to the action is signed by all of the Directors entitled to vote on the action.

Section 6. Special Meetings

- a.) Special meetings of the Board of Directors may be called by or at the request of the President or any two members of the Board of Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any location, as the place for holding any special meeting of the Board called by them so long as it provides for the opportunity for participation of the other Directors by conference call or other means of communication by which all persons participating in the meeting are able to hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting.
- b.) Notice of any special meeting of the Board of Directors shall be given at least two (2) days in advance of the meeting by telephone, facsimile or electronic methods or by written notice. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 7. Quorum

The presence of one-third of all the Voting Directors in office at the time shall constitute a quorum of the Board at all meetings. The act of the majority of the Directors present at a meeting at which a quorum is present shall be an act of the Board, unless the act of a greater number is required by law, the Articles of Incorporation, or these Bylaws.

Section 8. Vacancies

In the event that the number of duly elected Directors should be less than three, the Chairman shall appoint such number of Directors as may be required to bring the number of Directors up to three. No such appointed Director shall continue to serve as a Director unless such continued service is required in order to prevent the number of Directors from being less than three. The Board shall have the authority to fill vacancies in elective offices or directorships caused by death, resignation, removal or inability to act.

Section 9. Compensation

No person shall receive compensation for services as a Director or as an elected Officer of the Council.

Section 10. Immediate Past Chairman

The Immediate Past Chairman of the Council shall be, unless a duly elected Director, a member, ex-officio, of the Board and of the Executive Committee unless such person has been removed from membership under Article IV, Section 4 or 5. The Immediate Past Chairman shall have no vote at any meeting of the Board except to break a tie vote.

Section 11. Board Authority

The following shall not be considered exclusive or as in any way limiting the general authority of the Board as specified in Section 1 of this Article:

- a. The Board shall have the authority to bind the Council by contract or by any written instrument and to specify, in general or in particular instances, which officers or agents of the Council shall execute such contracts or other written instruments on behalf of the Council.

b. The Board, acting through Officers and agents of the Council, shall have authority to borrow money for any corporate purpose and to secure borrowings by the pledge or mortgage of any corporate assets to the extent permitted by law; to make all investments requiring a capital outlay; and to purchase, rent, or otherwise acquire and to sell, lease or otherwise dispose of, real and personal property or interest therein, as may be necessary or appropriate for the proper conduct of the affairs of the Council.

c. The Board shall satisfy itself that proper records are kept of all Council transactions, including a proper accounting system.

d. The Board shall have authority to prescribe particular duties of Officers and agents of the Council and to require satisfactory bonds from the Treasurer, the President & CEO and such other Officers or agents of the Council as it deems necessary.

e. The Board shall have authority to fill vacancies in elective offices or directorships caused by death, resignation, removal or inability to act.

f. The Board shall have authority to remove from office or discipline any Officer or Director of the Council, provided that such Officer or Director is afforded the opportunity for a fair and impartial hearing; and, provided further, that no such Officer or Director shall be removed or subjected to discipline except upon the affirmative vote of three-fourths of the Directors voting and present during a duly called meeting at which a quorum is present.

ARTICLE VIII - OFFICERS

Section 1. General

The Board shall, at its annual meeting in odd-numbered years, or when needed to replace a Chairman who does not complete his/her term, elect from the members of the Council a Chairman and the following Officers who shall serve for two years: One Vice Chairman, a Secretary and a Treasurer. All Officers shall hold office at the pleasure of the Board or until the election of their successors. No two offices, except those of Secretary and Treasurer, may be held by the same person. Geographic balance shall be considered in the officer nomination process.

Section 2. Chairman

The Chairman shall preside at all meetings of the members, of the Board and of the Executive Committee. He/she shall perform all acts and duties usually performed by a principal elected Officer as required by these Bylaws or imposed upon him by resolution of the Board or of the Executive Committee. The Chairman shall be, Ex-Officio, a member of all Council Committees.

Section 3. Vice Chairman

The Vice Chairman shall, in the absence of the Chairman, or when so directed by the Chairman, perform the duties of the Chairman.

Section 4. Secretary

The Secretary plays a critical role in fostering communication and diligence through proper management and utilization of important records such as meeting minutes and the organization's bylaws either in person or via delegation to staff, consultants, or others. He or she is an active conduit for communication, including proper notice of any meetings and timely distribution of materials such as agendas and meeting minutes. Additionally, the secretary must be knowledgeable of the organization's records and related materials, providing advice and resources to the Officers and Directors on topics such as governance and other association management, to assist them in fulfilling their fiduciary duties.

Section 5. Treasurer

The Treasurer is assigned the primary responsibility of overseeing the management and reporting of an organization's finances. The Treasurer has many important duties specific to its role which may include both direct responsibility and oversight of actions performed by staff, consultants, or others delegated to complete functions, including: Bank account maintenance, financial transaction oversight, Budgets, Reports, Chair of Finance Committee.

Section 6. President/CEO

The Board or the Executive Committee may appoint an President & CEO (CEO) who shall be the chief staff executive officer of the Council and, acting under the direction of the Chairman and in accordance with the policies and directives of the Board, shall be responsible for conducting the affairs of the Council. The CEO shall be an Officer of the Council and shall serve as an ex-officio, non-voting member of the Board and the Executive Committee. The CEO shall have charge of all corporate books, records and papers, and shall perform such other duties as are generally incident to, necessary for and proper in the conduct of his office. The CEO shall have the sole authority to employ, evaluate, and terminate the employment of all other staff personnel. The CEO shall give such satisfactory surety bond for the faithful performance of his duties as the Board or Executive Committee may require. The CEO need not be a member of the Council.

ARTICLE IX - EXECUTIVE COMMITTEE

Section 1. Members of Executive Committee

The Executive Committee shall consist of seventeen (17) persons, including the Chairman, the Vice Chairman (excluding the President & CEO, who shall serve without a vote), the Secretary and the Treasurer. Persons in the Leader membership category shall sit on the Executive Committee. The remaining persons shall be chosen by the Board from among its members once every two years. The Executive Committee shall be expanded beyond seventeen (17) persons if the number of members in the Leader membership category would cause such an expansion.

Section 2. Meetings

The Executive Committee shall meet at least once per year in addition to the one required full Board meeting, at the call of the Chairman, or at the request of five (5) members of the Executive Committee. To the extent permitted by applicable law, any person participating in a meeting of the Executive Committee may participate by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting.

Section 3. Powers

The Executive Committee shall at all times when the Board is not in session, exercise the power of said Board, subject to any prior limitations established by law, the Articles of Incorporation, these Bylaws, or the Board.

Section 4. Records

The Executive Committee shall keep a written record of all its acts and proceedings and report them to the Board.

Section 5. Vacancy

Any vacancy in the Executive Committee shall be filled by the Board.

Section 6. Quorum

A simple majority of the full voting membership of the Executive Committee shall constitute a quorum.

Section 7. Chairman

The Chairman shall serve as chairman of the Executive Committee.

ARTICLE X - OTHER COMMITTEES

Section 1. Standing Committees

There shall be three (3) standing committees to lead the work and outreach of the Council. These shall be:

- a.) Labor and Relations Committee (LR&R): Leads regulatory and labor relations strategy, positioning, and actions on federal regulatory issues prioritized by the Board.
- b.) Legislative Committee: Leads legislative strategy, positioning, and actions on federal legislative issues prioritized by the Board.
- c.) Visas and Seasonal Workers Committee: Leads the Council's strategic planning and action on issues directly related to seasonal or temporary, worker visas and documentation. (Formerly designated H-2A Committee.)

Section 2. Other Committees

The Board may, by resolution, establish such other committees, working groups, or task-forces as it deems necessary or proper. Such groups shall not have nor exercise the authority of the Board in the management or public representation of the Council.

Section 3. Committee Members

The Chairman, subject to the approval of the Board, shall appoint members to serve on committees and shall designate the chairs thereof.

Section 4. Committee Action

Action taken by committees shall in all instances be subject to Article XI.

ARTICLE XI - DECLARATION OF POLICY

Responsibility for any decision or declaration of Council policy, or endorsement or rejection of any matter on any subject of policy is reserved to the judgment and discretion of the Board. Committees, individual members, or staff, except the Executive Committee, are prohibited collectively or individually from committing the Council in any way or manner, without prior approval by the Board except as provided for by law, by the Council's Articles of Incorporation, by these Bylaws, as specified in the approved Council budget, or in written job descriptions.

ARTICLE XII - AMENDMENT OF BYLAWS

These Bylaws may be amended by a majority vote of the members present and voting at any duly called annual or special meeting of the membership provided that all members are notified at least thirty (30) days in advance of the meeting regarding the specific amendment(s) to be considered. Amendments to these Bylaws may be proposed and will be considered if submitted to the Chairman, or President & CEO, by written petition at least sixty (60) days in advance of the annual meeting, such petition to be signed by at least ten (10) active members. Amendment may also be proposed by a majority of the Directors at any meeting of the Board at which a quorum is present.

ARTICLE XIII - INDEMNIFICATION

Every Director, Officer or employee of the Council shall be indemnified by the Council against all expenses and liabilities, including counsel fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director, Officer, or employee at the time such expenses are incurred, except in such cases wherein the Director, Officer or employee is adjudged guilty of or liable for willful misfeasance or malfeasance in the performance of his duties. Provided, however, that in the event of a settlement the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Council. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which each Director, Officer, or employee may be entitled.

ARTICLE XIV - DISSOLUTION

In the event of liquidation or dissolution of the Council, whether voluntary or involuntary:

(1) No member or employee shall be entitled to any distribution or division of its remaining property or its proceeds.

(2) The balance of all money and other property received from any source, after the payment of all debts and obligations, shall be distributed to an organization that is recognized as exempt from federal income tax under either Section 501(c) (3) or Section 501(c) (6) of the Internal Revenue Code of 1986 and the regulations thereunder, as the same now exist or as they may be hereafter amended.