

CONSTITUTION OF



YEARS OF
YOUTH
ACTIVISM

Founded 2008

NOTE:

Equal Education (EE) was preceded by the Applied Education Research Organisation (AERO), which held its first meeting on 14 December 2006. However, the official birthday of EE is usually regarded as 1 February 2008.

Between EE's First National Congress in July 2012 and the Second National Congress in July 2015, the Constitution existed as an Interim Constitution (with amendment power by $\frac{3}{4}$ majority given to the National Council). Now that Congress has adopted it, it can only be amended as set out in the sections dealing with amendments.

This Constitution was adopted at EE's Second National Congress on 5 July 2015 and was amended at EE's Third National Congress on 4 July 2018.

TABLE OF CONTENTS

Chapter 1	Name of the Movement
Chapter 2	Legal nature and personality
Chapter 3	Definitions
Chapter 4	Vision and mission
Chapter 5	Aims objectives and activities
Chapter 6	Values
Chapter 7	Membership
Chapter 8	Termination of membership, suspension and expulsion
Chapter 9	Liability
Chapter 10	Governance
Chapter 11	National Council
Chapter 12	Membership of National Council
Chapter 13	Election of National Council
Chapter 14	Powers and duties of National Council
Chapter 15	Proceedings of National Council
Chapter 16	Termination of office of NC members

Chapter 17	National Council liability
Chapter 18	Secretariat
Chapter 19	Chairperson
Chapter 20	General Secretary
Chapter 21	Treasurer
Chapter 22	National Congress
Chapter 23	Proceedings of National Congress
Chapter 24	Special Congress
Chapter 25	Rules of National Congress or Special Congress
Chapter 26	Financial affairs
Chapter 27	Employees
Chapter 28	Branches, sub-committees and other structures
Chapter 29	Amendment procedure
Chapter 30	Meaning of this Constitution
Chapter 31	Dissolution

CHAPTER 1: NAME OF THE MOVEMENT

- 1.1. The name of the Movement is Equal Education. (In this Constitution it is referred to as 'EE' or 'the Movement'.)

CHAPTER 2: LEGAL NATURE AND PERSONALITY

- 2.1. The Movement is a legal entity separate from its individual members. It will continue to exist even if the members change. The Movement may own property, enter into contracts, and sue or be sued in its own name.
- 2.2. EE is a registered Non-Profit Organisation (NPO) with registration number 068-288-NPO.
- 2.3. EE is a registered S10(1)(cN) and S18A(1)(a) Public Benefit Organisation (PBO) with Exemption Number 930 027 221.

CHAPTER 3: DEFINITIONS

Some terms, like 'National Council' and 'Secretariat', are defined at the start of the relevant sections of this Constitution. This section defines additional terms which are not defined elsewhere in this Constitution.

Equaliser: A member of Equal Education who is attending a Primary or Secondary School. (For who is a member see **7.3.**)

Facilitator: a post-school youth member who plays a key role in EE's day-to-day youth and community organizing and campaign work, including organising Equalisers and popular education.

Persons: Unless otherwise indicated shall be construed as a reference to a natural person.

Management: A body comprised of the most senior staff members which manages the day to day affairs of EE and implements the program set out by Congress, the National Council (NC), and the Secretariat.

Parent: A member who is active in EE's parent branches.

Post-School youth: A member from a Tertiary Society or a facilitator.

Supporters of EE: Community members or other persons who are not members of EE but support the work and activities of EE.

Branch: Any group of EE members, which has been given branch status by the NC in accordance with 14.19.

CHAPTER 4: VISION AND MISSION

4.1. Equal Education is a movement of learners, parents, teachers and community members working for quality and equality in South African education, through analysis and activism. The Movement is part of a broader democratic struggle for a free and equal society.

CHAPTER 5: AIMS OBJECTIVES AND ACTIVITIES

5.1. EE aims to be a research-informed, community-based, membership-based, youth oriented people's movement advocating for educational quality and equality in South African education, and for the defence and advancement of education as a public good.

5.2. The Movement will campaign to achieve equal and quality education for every person. The Movement may conduct a broad range of activities to achieve these aims and objectives. These activities may include, but are not limited to, the following:

- 5.2.1. Build a generation of young people and leaders who are socially and politically aware, committed to human rights and global environmental sustainability, personally responsible, active in struggles for freedom and equality, and who live by EE's values.
- 5.2.2. Develop the capacity of learners, parents, teachers, students, post-school youth and community members to drive improvement in schools and educational institutions. In this regard EE aims to be a base of community organising, a trusted source of information, a vehicle for training, and a strategic centre for struggles for quality education in South African schools.
- 5.2.3. Conduct and apply research on the state of the education system in South Africa.
- 5.2.4. Campaign, based on evidence, for a curriculum and pedagogy that promotes human dignity, creativity, social justice and the highest standards of content and rigour in teaching.
- 5.2.5. Engage constructively with the State on best practices in the management and governance of the education system including through meetings, letters or briefs and input into legislative and policy development processes.
- 5.2.6. Organise meetings, camps, seminars, lectures, conferences, summits and other activities involving learners, parents, teachers, activists and community members to advance the values and objectives listed in this Constitution.
- 5.2.7. Provide information about education and human rights to the public.

- 5.2.8. Write, speak, petition, campaign, picket, gather, march, and engage in any other form of peaceful action to advance the values and objectives listed in this Constitution.
 - 5.2.9. Use all forms of media to advance the values and objectives listed in this Constitution.
 - 5.2.10. Where necessary, use courts and legal processes to advance the values and objectives listed in this Constitution.
 - 5.2.11. Contribute to a strong civil society that holds private interests, government, individuals, and itself accountable to the values in this Constitution.
 - 5.2.12. Promote and, where necessary, defend basic democratic principles and rights, such as freedom of expression and association, access to information, privacy, good governance, participation in democratic elections, and freedom and security of the person, including freedom from sexual harassment and gender-based violence.
 - 5.2.13. Share information and ideas, and support campaigns of other organisations and movements locally and globally that advance freedom, equality and human rights.
- 5.3. Secondary activities to achieve the aims and objectives are:
- 5.3.1. Where resources allow, supporting individual members in accessing study opportunities, work opportunities and social services, with the principal aim being that such members invest their time and skills in building EE and advancing its values and objectives.

- 5.3.2. Where resources allow, facilitating academic support for members in the form of tutoring, mentorship, extra lessons and study materials.
- 5.3.3. Test an educational project or intervention in a particular area, and provide the resources needed.
- 5.4. In carrying out its activities, developing its materials and in its discussions the Movement shall encourage open discussion, and diversity and accessibility in respect of language and format.
- 5.5. In carrying out its activities the Movement must consult reputable sources of information and evidence.

CHAPTER 6: VALUES

- 6.1. Members of EE strive to:
 - 6.1.1. Act with honesty and integrity in everything we do.
 - 6.1.2. Be people of action and commitment who lead by example.
 - 6.1.3. Engage in lifelong learning.
 - 6.1.4. Respect and develop schools and educational institutions.
 - 6.1.5. Struggle for social equality locally and globally, particularly in education.
 - 6.1.6. Defend human rights, and work to eliminate direct and indirect discrimination and inequality based on race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth, health or any other status.

- 6.1.7. Trust and support each other, and work cooperatively.
- 6.1.8. Hold our leaders and ourselves accountable.
- 6.1.9. Use the resources of the Movement with care.
- 6.1.10. Lead social transformation, especially in education, through analysis, evidence and peaceful activism.

CHAPTER 7: MEMBERSHIP

- 7.1. All members of EE undertake, while they remain members, to be bound by the terms of this Constitution, including any amendment thereof, and to support the Movement's vision and mission, to carry out its aims and objectives, and to strive to live by its values.
- 7.2. Membership is open to natural persons, in terms of **7.3**. It confers all the rights and duties of this Constitution upon a person who becomes a member.
- 7.3. In order to be a member a person must:
 - 7.3.1. Be, at minimum, turning 12 in the year he or she joins EE. There is no maximum age for membership.
 - 7.3.2. Correctly complete an EE membership form, which includes signing the declaration, which can be amended by the NC from time to time.
- 7.4. A member in good standing must have been active in EE for the last six months.

7.5. The NC has the power, from time to time, to add additional requirements for membership including periodic renewal and/or to decide to restrict membership to certain provinces, areas, or age-groups, or on other grounds, provided that:

7.4.1. Such a decision has a rational basis;

7.4.2. Additional requirements are clearly communicated;

7.4.3. No person already a member of EE is excluded.

7.5. The NC must within the first 6 months after the Congress at which it was elected determine what it means to be 'active' for the purposes of 7.4 and 8.1.2. This definition of active will be applied throughout the term of a sitting National Council, until the next General Congress.

7.6. No member may be a delegate to National Congress until the year in which they turn 14.

7.7. Membership cannot be transferred.

7.8. The NC must keep a register with the names and addresses of all members, which register must be updated on an annual basis.

CHAPTER 8: TERMINATION OF MEMBERSHIP, SUSPENSION AND EXPULSION

8.1 Membership terminates upon:

8.1.1 the death of a member, or

8.1.2 a member failing to be active for the last six months, or

8.1.3 resignation in terms of **8.3** or **8.4**, or

8.1.4 expulsion, as explained below.

8.2 If the NC determines that members must renew their membership, and gives adequate notice that members must reapply for membership

within a reasonable period of time, those who fail to do so will forfeit their membership. A person whose membership has been forfeited will have to ensure compliance with **7.3** in order to regain membership.

- 8.3. A member may resign his or her membership at any time. Such resignation must be made in writing to the NC.
- 8.4. The NC may on reasonable grounds conclude and record that a member has in fact resigned although an express act of resignation is lacking. Such decision should where possible be communicated to the person concerned.
- 8.5. The Disciplinary Committee (DC) is to be established by the NC in terms of **14.24**. The DC is able to apply different levels of sanction to members it finds guilty:
 - 8.5.1. Expulsion;
 - 8.5.2. Suspension with conditions;
 - 8.5.3. Suspension without conditions;
 - 8.5.4. Lesser sanctions which the DC can construct.
- 8.6. Subject to **8.10** below, the DC can only suspend or expel a member after giving her or him a fair opportunity to be heard, and (if such Code of Conduct is in force) in accordance with procedures set out in the Code of Conduct referred to in **14.16**.
- 8.7. To suspend or expel a member the DC must be satisfied on reasonable grounds that the member has:
 - 8.7.1. Failed to fulfill or sustain any of the undertakings and requirements of membership in terms of this Constitution; or
 - 8.7.2. Intentionally or negligently lost, wasted, misappropriated or damaged any asset to the substantial prejudice of EE; or

- 8.7.3. Engaged, during or in connection with any EE activity, in abusive or other serious disorderly conduct which has harmed or may be expected to harm the effective functioning of EE or any part of it; or
- 8.7.4. Engaged in misconduct of any kind, whether in connection with the activities of EE or otherwise, which is so unconscionable that the integrity or reputation of EE itself may be expected to be seriously compromised if the member were allowed to remain a member in good standing; or
- 8.7.5. Seriously transgressed the Code of Conduct referred to in **14.16**.

8.8. The following further provisions apply to suspensions:

- 8.8.1 During any period of suspension, a suspended member may not participate in the activities of EE or be counted as a member.
- 8.8.2 No period of suspension may exceed one year.
- 8.8.3 A suspension without conditions ends automatically at the end of the suspension period determined by the DC.
- 8.8.4 A suspension with conditions does not end automatically.
 - 8.8.4.1 This type of suspension is lifted if the DC is satisfied that the suspended person has fulfilled the conditions set. (For example, the DC might require a suspended person to attend counselling related to his or her offence.)

- 8.8.4.2 The suspended member must write to the DC at least two months prior to the end of the suspension period to request to be readmitted as a member. In the letter the suspended person must explain what he or she has done to fulfill the conditions of the suspension.
 - 8.8.4.3 The DC can hold a hearing or make a decision based on the letter. The DC must finalise and communicate its decision by the end of the suspension period.
 - 8.8.4.4 If the DC finds that a suspended person has not met the conditions attached to the suspension, the DC must expel that person.
 - 8.8.4.5 If the suspended member writes to the DC at least two months prior to the end of the suspension period, but the DC fails to make a decision by the end of the suspension period, then the suspension lifts automatically.
 - 8.8.4.6 If the suspended person fails to write to the DC at least two months prior to the end of the suspension period then the suspension can continue beyond the end of the suspension period in order to give the DC time to make a decision. This is the only exception to **8.8.2**.
- 8.9 An individual whose membership has been suspended, with or without conditions, or who has been expelled, and who seeks to challenge the decision of the DC in this regard, has the right of appeal to the NC. The NC must conduct an appeal hearing within a reasonable time. The NC can create a subcommittee for the purposes of conducting the

aforesaid appeal, which subcommittee must include at least three NC members. Members of the DC cannot hear the appeal.

- 8.10 A member found guilty of a criminal offence in a court of law will have no right of appeal in terms of clause 8.9 if their offence is the main reason for their suspension or expulsion.
- 8.11 A staff member who is also an EE member should adhere to all EE's staff policies as well as membership policies. A staff member of EE who has been dismissed through EE's staff disciplinary procedures is automatically expelled as a member of EE.
- 8.12 A member who has been suspended or expelled in terms of this clause **8** is, insofar as they are a member of National Council, automatically suspended or expelled as a member of the National Council.

CHAPTER 9: LIABILITY

- 9.1. The members of EE shall not, merely by virtue of their membership, be personally liable for any of the obligations of EE or have any claim upon any of the assets of EE.

CHAPTER 10: GOVERNANCE

- 10.1. The governance of the Movement is vested in the membership through the National Congress, its elected leadership comprising the NC led by the Secretariat, assisted by the Management of the Movement.

CHAPTER 11: NATIONAL COUNCIL (NC)

- 11.1. The NC of the Movement is its highest decision-making body between congresses subject to the provisions of this Constitution. It shall represent the Movement in a responsible and appropriate manner in all meetings and in public.

CHAPTER 12: MEMBERSHIP OF NATIONAL COUNCIL

- 12.1 The NC consists of at least eight members, but no more than 28.
- 12.2 National Congress elects a Chairperson, two Deputy Chairpersons, Treasurer (subject to Chapter 21), General Secretary (GS) and Deputy General Secretary (DGS). The position of Chairperson is unpaid. The Chairperson may not be engaged in any form of paid employment in any capacity within EE and must within 3 months of being elected as Chairperson resign from any such positions of paid employment.
- 12.3 There are two Deputy Chairperson positions. The positions of Deputy Chairperson are reserved for a post-school youth member not older than 25, and a school-going youth member not younger than turning 14 in the year of assuming office. The Deputy Chairperson positions are unpaid. The post-school youth Deputy Chairperson is not barred from paid employment in other capacities within EE. The Equaliser Deputy Chairperson is barred from paid employment in other capacities within EE.
- 12.4 As per **16.1.6**, if the Deputy Chairperson who is a school student finishes school he or she is no longer a member of the NC. The NC must co-opt a replacement. In doing so the NC is encouraged to seek the input of the active equaliser membership.
- 12.5 If the Chairperson position for any reason becomes vacant, the members of National Council must by majority vote select one of the co-opted members of NC to be Interim Chairperson until the next Congress or Special Congress.
- 12.6 In addition to provincial equalizer and post-school youth representatives as per 12.7 and 12.8 below, a maximum of one

representative from each designated province may be elected to NC. The NC can at any time designate a province entitled to representation on the NC, or at any time, on reasonable grounds, remove the right of a province to representation on the NC. When making these decisions the NC must consider the factors listed in 14.19, substituting “province” for “branch”. Designated provinces should elect representatives at Congress. If at any time a designated province does not have a representative on the NC, the NC should co-opt an appropriate person after consultation with the active membership of the province. As per **16.1.5** provincial representatives must live in the province they are representing on the NC.

- 12.7 A maximum of two parent-members, active in EE’s parent structures. If these are not elected at Congress, the NC has the power to co-opt them in consultation with EE’s active parent membership.
- 12.8 A maximum of five equalisers, with a maximum of one equaliser representing each designated province. Equaliser representatives for NC may not be younger than turning 14 in the year of assuming office. If an equalizer representative is not elected at Congress, or as per **16.1.6**, if an equaliser representative on the NC finishes school he or she is no longer a member of the NC, then a representative or replacement representative may be elected within three (3) months of the vacancy by a majority of votes of Leadership Committee members in that province..
- 12.9 A maximum of five post-school youth, with a maximum of one post-school youth representing each designated province. Post-school youth may not be older than 25 in the year they assume office. If these are not elected at Congress, or if they no longer serve as a post-school youth member, then a representative or replacement representative may be elected within three (3) months of the vacancy by a majority of votes of the active post-school youth members in that province..

- 12.10 A maximum of five additional co-opted members committed to the Movement's aims and objectives and with requisite experience in the fields of education and social justice. These are not elected positions. NC may co-opt them.
- 12.11 The NC must inform members, within a period of two (2) months of the NC co-opting a person onto the NC, of the name and envisaged contribution of the coopted member.

CHAPTER 13: ELECTION OF NATIONAL COUNCIL

- 13.1. Subject to other provisions of the Constitution, elected members of the NC shall be elected by secret ballot at the National Congress and shall serve in office for a term of approximately three years (subject to **12.4** and **12.8**).
- 13.2. Subject to **14.13**, all positions in section 12 above should preferably be elected at Congress, except for those described in **12.10** and **12.11** which must be co-opted. All positions subject to election are elected through a vote of the entire Congress. However provincial representatives contemplated in **12.5**, **12.7** and **12.8** are elected by the delegates from their province only.
- 13.3. Members of the NC shall be eligible for re-election. No NC member shall serve more than three terms in the same position.
- 13.4. The election of the NC shall proceed in the following manner: A representative of an independent organisation, such as the Independent Electoral Commission, who is not a member of the outgoing NC and who is not a nominee for the incoming NC, shall be appointed by the NC as the election officer and shall preside over the election, declare the results, and announce whether or not the election was free and fair.

- 13.5. The process by which the election, including the nomination process, is to be conducted will be publicised by the election officer within a reasonable period before an election.
- 13.6. Members of an outgoing NC shall automatically have delegate status at Congress.
- 13.7. A vote of no-confidence to remove any member of the Secretariat, can be passed by two-thirds of the National Congress or Special Congress.
- 13.8. A vote of no-confidence to remove any office bearer representing a particular provincial constituency can be passed by two-thirds of that constituency in the relevant province.

CHAPTER 14: POWERS AND DUTIES OF THE NATIONAL COUNCIL

- 14.1. The NC shall lead the Movement and govern all of its affairs between National Congresses. The NC has full power and authority to carry out all the objectives of the Movement, except powers given by this Constitution to a National or Special Congress. The NC must act in accordance with the principles of consultation, transparency and accountability.
- 14.2. The NC with the assistance of the Secretariat, acting in terms of **18.1.1**, and the GS, acting in terms of **20.1.1**, are bound to work to ensure that resolutions adopted at the National Congress are implemented.
- 14.3. At least once per year the NC must receive a report on national and provincial programme and campaign work, a report from the GS and DGS; and a report from the Treasurer on income and expenditure;
- 14.4. The NC must approve the annual budget of the Movement each year;

- 14.5. The NC must obtain support, financial or otherwise, for EE; The NC must administer the financial affairs of EE, and invest the funds and assets of EE responsibly. It retains final authority over and responsibility for decisions relating to expenditure, payments, salaries and allocation of resources;
- 14.6. The NC must network and liaise with other relevant organisations;
- 14.7. The NC must decide what amount of funds should be invested and what amount should be retained for administrative or other expenses;
- 14.8. The NC must operate bank accounts, with any bank registered under the Banks Act 94 of 1990, in the name of EE; and operate any other account such as a campaign account that, in the opinion of the NC, is necessary for the proper administration of the financial affairs of EE; and may make investments on behalf of EE;
- 14.9. The NC must nominate persons as signatories on EE's bank accounts, provided that two members of the NC shall be required to authorise any amount above a reasonable amount determined from time to time by the NC;
- 14.10. The NC may hold, lease and own property of any kind in the name of EE;
- 14.11. The NC may sell, exchange, lease, mortgage or otherwise alienate any or all of the assets of EE;
- 14.12. The NC may enter into such contracts and engage in such transactions as may be necessary to achieve EE objectives;
- 14.13. The NC may co-opt any person onto the NC to fill any vacancy including a Secretariat vacancy. This can be done by a simple majority. The NC may co-opt persons having such skills as may be

required by the NC. The term of office of all co-opted members shall run concurrently with that of the appointing NC;

- 14.14. The NC may employ any person in the interests of EE, in terms of **27**, if and when EE is in position to do so, and remunerate and terminate such employment accordingly;
- 14.15. The NC must develop and enforce policies and procedures that apply to employed staff, which, amongst other things, must establish a code of conduct and establish disciplinary and grievance procedures;
- 14.16. The NC must develop and enforce a Code of Conduct for all EE members including members of the NC, or for a section of EE members;
- 14.17. The NC must register the name, and /or this Constitution under any relevant law, and ensure registrations are kept up to date;
- 14.18. Only the NC may institute and defend in the name of EE, any legal proceedings brought on behalf of or against EE. The NC may also, at its sole discretion, provide assistance to any individual member or employee to institute or defend any legal proceedings arising out of authorised EE work.
- 14.19. For the purpose of exercising its discretion in conferring branch status the NC must take into account the following factors:
 - 14.19.1. The need to grow the Movement in a non-racial, geographically diverse and financially responsible and sustainable manner.
 - 14.19.2. The number of members in the proposed branch.

- 14.19.3. The regularity of the proposed branch's meetings or work, and any relevant obstacles.
 - 14.19.4. The nature and duration of the proposed branch's activities.
 - 14.19.5. The aims and objectives of the Movement as reflected in this Constitution.
- 14.20 The NC must determine the number of delegates permitted to represent any particular branch at National Congress in accordance with the principles laid out in section **14.19**;
- 14.21 The NC must support the establishment of EE branches and consult with them on their structure and organisation;
- 14.22 This Constitution, once it is adopted by a two-thirds majority at the Second National Congress, may only be amended as specified in **14.23** and **29.1**.
- 14.23 If necessary to comply with the provisions of any relevant law, the NC may amend this Constitution by a three-quarters majority vote of NC members. Such amendments must be ratified by a two-thirds majority at a National Congress;
- 14.24 The NC may delegate appropriate powers outlined in this Constitution to the Secretariat, EE's Management, or a committee or subcommittee of the NC. (See also **18.1.1**.) Delegation can be express or tacit. Delegation can be revoked. One of the committees the NC must establish is the Disciplinary Committee (DC) (see **8.5**) which will consist of at least one member of the NC and two other EE members;

- 14.25 The NC may regulate EE membership forms and application procedures;
- 14.26 The NC has the power to hear appeals against suspensions and expulsions in terms of **8.9**;
- 14.27 The NC may exercise all the powers of the Movement not only in the Republic of South Africa but also elsewhere;
- 14.28 The NC has such powers as are usually accorded to the board of directors of an association referred to in Schedule 1 of the Companies Act, 71 of 2008 or any successor thereto;
- 14.29 The NC must regulate the Movement's election procedures through the appointment of an election officer referred to in section **13.4**; and
- 14.30 The NC may reallocate, in the event of a vacancy opening up within the Secretariat, the positions held by Secretariat members. For this a simple majority is required.

CHAPTER 15: PROCEEDINGS OF NATIONAL COUNCIL

- 15.1. The NC shall meet in person at least twice a year and regulate its proceedings in the following manner:
- 15.1.1. All NC meetings shall be presided over by the Chairperson or, in the absence of the Chairperson, one of the Deputy Chairpersons, or in their absence any person nominated by the Chairperson. If the Chairperson does not nominate anyone, the NC will nominate someone.
- 15.1.2. The Chairperson shall convene a meeting of the NC. Any three NC members can also call an NC meeting. They must advise the GS and Chairperson of the purpose of the meeting.

15.1.3. Additional NC meetings may be conducted by telephonic or electronic means.

15.1.4. Two-thirds of the membership of the NC shall constitute a quorum.

15.1.5. Unless otherwise indicated, any matter before the NC, other than a constitutional amendment, shall be resolved by a simple majority of those present and voting. In the event of an equality of votes the chairperson of the meeting shall have a casting vote.

15.1.6. The NC can, at its discretion, open an NC meeting to ordinary members and other interested observers.

CHAPTER 16: TERMINATION OF OFFICE OF NC MEMBERS

16.1. An NC member shall be removed from office if he or she:

16.1.1. Resigns,

16.1.2. Ceases to be a member of EE, including where a member has been expelled,

16.1.3. Becomes incapacitated for any reason, or

16.1.4. Is voted out, where reasonable grounds exist, on the basis of misconduct, incapacity, or failure to carry out her or his duties, through an NC resolution adopted by at least two-thirds of those at a properly constituted NC meeting.

16.1.5. Is a provincial representative in terms of section **12.5** who no longer lives in the province he or she is supposed to represent.

16.1.6. Is an equaliser representative, or equaliser deputy chairperson, who no longer goes to school.

16.2. Failure to attend two consecutive NC meetings without reasonable grounds will require the NC to consider whether removal is appropriate in terms of **16.1.4**.

CHAPTER 17: NATIONAL COUNCIL LIABILITY

17.1. The NC or individual members thereof shall be and are hereby indemnified from and against all losses, charges, costs, damages and all and every other expense and liability which they may incur in the exercise or performance of or the omission to exercise or perform any power or duty conferred or imposed on them in terms of this Constitution, unless such an act or omission was in bad faith, wilful or amounts to an act of gross negligence.

17.2. No member, office-bearer or employee shall unilaterally bind EE in any transaction, negotiation, statement, or action without authority granted by the NC.

CHAPTER 18: SECRETARIAT

18.1. The Secretariat comprises the elected office-bearers of EE (Chairperson, two Deputy Chairpersons, Treasurer, General Secretary and Deputy General Secretary), and two other NC members, one of whom must be an equaliser and the other an NC member co-opted in terms of **12.10** for their experience or skill. The duties of the Secretariat include the following:

18.1.1. The Secretariat guides, supports and directs the policy and strategy of EE between meetings of the NC and it reports to the NC. Between meetings of the NC there is a tacit

delegation to the Secretariat of appropriate NC powers and responsibilities, unless otherwise indicated in this Constitution. The NC can also resolve not to delegate certain powers and/or responsibilities.

- 18.1.2. The Secretariat sets out the programmatic and strategic priorities based on guidance from the National Congress and NC. It directs the implementation of policy, programmes and campaigns.
- 18.1.3. The Secretariat provides direct governance and oversight of EE Management.
- 18.1.4. The Secretariat functions as a team and should meet on a monthly or six weekly basis.
- 18.1.5. Quorum for Secretariat meetings will be met when 6 (six) members of the Secretariat are present.
- 18.1.6. The Secretariat and NC receive organisational and technical support through the office of the General Secretary. Organisational and technical support includes circulation of reports, minutes, logistics and copies of correspondence, as well as other appropriate assistance from time to time.
- 18.1.7. The Secretariat in general, and the GS in particular, are responsible for public representation of EE. Public representation includes engagement *inter alia* with EE members, youth, parents and community groups, the media, the political system, civil society, and donors. Where appropriate, this function may be delegated.

- 18.1.8. All Secretariat members are expected to maintain a professional and ethical standard that respects confidentiality of sensitive issues concerning policy, leadership and staff.
- 18.1.9. All interactions with EE members and staff will be professional and respectful. In their management and supervision tasks, the GS and DGS will be expected to set the standards of professionalism, openness, accountability, efficiency and effectiveness.
- 18.1.10. Any misuse of organisational resources, fraud, theft, or the abuse of the office of the Secretariat by any member/s will be regarded as a breach of the code of conduct and will result in disciplinary action and/or prosecution in line with this Constitution and policies of EE.
- 18.2. A member of the Secretariat removed from office as a National Council member in terms of Chapter 16 will immediately cease to serve as a member of the Secretariat.

CHAPTER 19: CHAIRPERSON

- 19.1 The Chairperson is responsible for convening and chairing Secretariat and NC meetings, a National Congress or Special Congress. The Chairperson must ensure consistent principles and processes of organisational governance. The Chairperson must give ongoing support to the NC, the Secretariat, the GS and the leadership of EE generally.
- 19.2 The Chairperson may table a report on governance of the Movement at National Congress.
- 19.3 The Deputy Chairpersons are required to support the Chairperson, and to fulfil the duties of the Chairperson in her or his absence. The

Chairperson may delegate specific duties to the Deputy Chairperson(s).

CHAPTER 20: GENERAL SECRETARY (GS)

20.1 The General Secretary (GS) is the primary public political representative of the organisation.

20.1.1 S/he supports all EE campaigns, programmes and offices, and ensures that all aspects of EE's work develop in accordance with direction provided by this Constitution, National Congress resolutions, NC resolutions, and Secretariat resolutions.

20.1.2 The GS must be very involved in the development and approval of plans, reports and budgets without necessarily taking direct line management responsibility.

20.1.3 The GS reports to the Secretariat and the NC and presents the report on national policy, programmes and campaigns to National Congress.

20.1.4 The DGS may be called upon to undertake the duties of the GS when appropriate.

20.1.5 The GS and DGS positions are full-time paid positions with EE. Only those available to work full-time are eligible for election to these positions.

20.1.6 The GS is required to build the base of EE, to support branches, and to invest time in the development of the membership of EE. In order to support this the DGS may play a less visible supporting role.

CHAPTER 21: TREASURER

- 21.1 The Treasurer may be elected at the National Congress and does not require member nor delegate status in order to be eligible for election. The Treasurer must have the requisite qualifications or experience or skill to fulfil his or her duties. If a Treasurer with requisite skills and expertise required for the position is not elected at National Congress, or if the Treasurer position becomes vacant, the NC must co-opt a qualified Treasurer to the NC within two (2) months after Congress or the position becoming vacant. The Treasurer must do the following:
- 21.1.1 Provide political oversight in budgeting, fundraising, expenditure and financial systems. The Treasurer reports to the Secretariat and NC;
 - 21.1.2 Nominate three professionally skilled people to the Treasurer's Audit Committee. These nominees must be confirmed or rejected by the NC, which establishes this committee. The Audit Committee will meet three times a year to analyse the budget, assist the Secretariat and the NC in budgeting and in preparation for the EE annual audit, and prepare the NC to sign off the audit on an informed basis.
 - 21.1.3 The Treasurer will ensure the appointment of a reputable auditing firm.
 - 21.1.4 The Treasurer must table the financial report including audits for the preceding three years at National Congress.
- 21.2 The Treasurer position is an unpaid role. The Treasurer may not receive any salary or financial benefit from EE.

CHAPTER 22: NATIONAL CONGRESS

- 22.1 The National Congress shall be held at least every three years at such a date and venue as determined by the NC.
- 22.2 The NC can create committees to handle any part of organising or running of the Congress, but retains final decision-making authority.
- 22.3 Reasonable notice of the National Congress will be given to branches. Electronic notification to members shall be deemed to constitute effective notice.
- 22.4 The NC will provide guidance to branches before each National Congress as to the manner in which their delegates to Congress are to be elected, on the basis of the principles of membership in Chapter 7, the definition of a branch in Chapter 3, and the principles outlined in **14.19** and **14.20**.
- 22.5 The NC can allocate observer places for additional attendance at Congress. The NC can create different categories of observers. Observers who are EE members have the right to attend all of the Congress, with the right to participate in the Congress discussions. Observers cannot vote in elections or resolutions.

CHAPTER 23: PROCEEDINGS OF NATIONAL CONGRESS

- 23.1 The National Congress shall:
- 23.1.1 Adopt the minutes and/or resolution(s) of the previous National Congress;
- 23.1.2 Receive and consider the Chairperson's report on governance, the General Secretary's report on EE's work and the Treasurer's financial report including audits for the preceding three years. The NC must be present to answer questions.

23.1.3 Publish any reports submitted by EE structures that are approved by the Congress organising committee;

23.1.4 Elect members of the NC;

23.1.5 Transact any other business in line with this Constitution.

CHAPTER 24: SPECIAL CONGRESS

24.1 The NC shall convene a Special Congress within 100 days of the receipt by the Chairperson or the GS of a request for such a meeting. A request for a Special Congress must be signed by no less than thirty three percent of registered members and must specify the purpose of such a meeting.

24.2 The NC shall convene a Special Congress if two thirds of NC members request it.

24.3 No less than 21 days' notice shall be given of any Special Congress, to the members, and the notice convening the meeting shall clearly state its purpose.

24.4 A Special Congress can only be convened once during the period between ordinary National Congresses.

CHAPTER 25: RULES OF NATIONAL CONGRESS OR SPECIAL CONGRESS

25.1 The following rules guide all proceedings at any National Congress or Special Congress:

- 25.1.1 Provided that all branches recognized by the NC are invited, the congress shall be regarded to have a quorum if at least 51 percent of branches or members are represented.
- 25.1.2 If there is no quorum then the National Congress or Special Congress shall be rescheduled for a further period agreed to by those present. No less than seven days' notice in writing is given to all members of the date, time and venue of the rescheduled congress. At the rescheduled congress all of those members present and voting shall constitute a quorum.
- 25.1.3 Congress shall be presided over by the Chairperson and/or any person delegated to chair one or more sessions with the agreement of the Chairperson. In the absence of the Chairperson, a Deputy Chairperson shall fulfil her or his role, or, in their absence, any person nominated by the Chairperson, or failing that any person nominated by the NC.
- 25.1.4 Decisions will be taken by a simple majority. If there is an equality of votes on any issue put to the vote, the Chairperson of the National Congress or Special Congress shall exercise the deciding vote.
- 25.1.5 Every delegate shall have one vote.
- 25.1.6 Only members in good standing will be eligible to be delegates. Only delegates are able to vote, and/or be voted for, at any Congress.
- 25.1.7 Minutes and/or resolutions from the Congress and an attendance register will be kept by the office of the GS and will be available for inspection by members.

CHAPTER 26: FINANCIAL AFFAIRS

26.1 The following procedures guide the financial affairs of the Movement:

26.1.1 Any income and property of EE shall be used solely for the promotion of its objectives.

26.1.2 No portion of the income or property of the Movement shall be paid or transferred, whether directly or indirectly, to any member or members of EE or any other person or persons. However, the Movement may, in its sole discretion, pay reasonable remuneration or costs (as appropriate) to any employee, or volunteer of EE, or any other member (except the Treasurer), or any other person, in return for any goods or services rendered to the Movement.

26.1.3 The Treasurer will ensure that the accounts of EE are open to inspection at the reasonable request of any member of EE.

26.1.4 An independent auditor shall be appointed to inspect the accounts of EE at the end of the financial year as stipulated in **21.1.3**. National Congress has the power to review or replace the auditor should it wish to do so.

26.1.5 The financial year of EE shall run from 1 January to 31 December.

CHAPTER 27: EMPLOYEES

27.1 If the NC deems it possible and necessary for EE to employ any person, the following shall apply:

27.1.1 The establishment of any salaried position of employment within EE and the appointment of any individual to that position shall be handled by the GS or appropriately delegated. The NC

may undertake a review of any appointment that is subject to a complaint of corruption or nepotism, and the NC must within three (3) months of being elected publish a procedure by which such a complaint can be made.

27.1.2 The establishment of any senior management-level salaried position of employment within EE and the appointment of any individual to that position shall be agreed to by the Secretariat or appropriately delegated.

27.1.3 In addition to the labour laws governing South Africa, the rights, duties and salary of any person employed by EE shall be determined from time to time by the NC.

27.1.4 Any person employed by EE shall not be precluded from holding office on the NC, provided that no more than a quarter (25%) of the NC shall be employees of EE. Should at any point in time the number of staff members exceed a quarter (25%) of representatives of NC, the NC will be empowered to coopt additional persons to NC in order to ensure that the proportion of staff representation is limited as per this clause.

CHAPTER 28: BRANCHES, SUB-COMMITTEES AND OTHER STRUCTURES

28.1 The following structures, among others, play an important role in the democratic life of the movement, and should be engaged with by the NC and receive adequate training and acknowledgment as they carry out their functions:

28.1.1 The equalisers' Leadership Committee (LC) structures, which bring together elected representatives from schools in which EE is organized.

- 28.1.2 Post-school youth executive committee as a liaison between facilitators, staff and provincial NC representatives.
 - 28.1.3 Structures which bring together elected representatives from parent branches.
 - 28.1.4 EE Societies at tertiary educational institutions, which provide spaces for some post-school members to connect with the Movement in tertiary institutions in which EE is organized.
 - 28.1.5 The collective of facilitators, which plays a key role in EE's youth and community organising and campaign work.
- 28.2 Only the NC and Secretariat have the power to recognise any new structure as a part of EE. This includes all structures, whether listed in this Constitution or not. Therefore any new committee, branch or other structure wanting to represent EE or use EE's name or resources must apply to the NC for recognition. This includes any new local or regional unit of an existing structure.
- 28.3 The NC may recognise additional structures, titles or offices necessary to best carry out the activities of EE.
- 28.4 In guiding the expansion of the organisation the NC must be guided by the aims and objectives of this Constitution and financial and logistical information provided by the Management of EE.
- 28.5 The NC may, from time to time, provide guidelines for the democratic functioning and efficient operation of branches, committees, and other structures.
- 28.6 The NC may, by a two-thirds majority vote, dissolve a branch or other structure contemplated to in this Chapter on reasonable grounds.
- 28.7 The dissolution of a branch in terms of **28.6** may only take place after three weeks' notice has been issued to members of the branch or

structure, which notice must invite comment from relevant members on the proposed dissolution.

CHAPTER 29: AMENDMENT PROCEDURE

29.1 This Constitution can only be amended at a National Congress or Special Congress by way of a special resolution at which two-thirds of those present and voting are in favour of the amendment. The same quorum requirements will apply as set out in section **25.1.1** and **25.1.2**. The Final Constitution can also be amended in terms of **14.23**.

CHAPTER 30: MEANING OF THIS CONSTITUTION

30.1 In instances of contradictions, gaps or unprecedented constitutional situations, any disagreement relating to the meaning of this Constitution, the NC's decision is final.

CHAPTER 31: DISSOLUTION

31.1 EE shall be dissolved by a resolution at a National Congress or a Special Congress at which 75 percent of those present and voting are in support of such dissolution. The same quorum requirements will apply as set out in **25.1.1** and **25.1.2**.

31.1.1 The notice convening a meeting to discuss such resolution shall state that a motion to dissolve the organisation is to be put to the meeting.

31.1.2 The notice shall be sent to all members at least one calendar month prior to the date of the meeting.

31.1.3 Upon the dissolution or liquidation of EE, all assets remaining after the payment of all debts and obligations shall be

distributed to a non-profit organization(s) for purposes consistent with the aims and objectives of the Movement.

31.1.4 In the event of the dissolution of EE, the Congress or Special Congress at which the resolution to dissolve is adopted may appoint a person to wind up the affairs of EE in accordance with the provisions of this Constitution. That person shall enjoy the powers normally accorded to a liquidator in winding up a company including the right to receive fees.