

## Briefing Note – New By-Law No. 1

Autism Society Ontario (the “**Corporation**”) was incorporated as a non-share capital corporation under the Ontario *Corporations Act* (the “**OCA**”) by Letters Patent dated May 25, 1973 (as amended by Supplementary Letters Patent dated July 17, 1986 and May 27, 1991) and registered as a Canadian charity effective as of May 25, 1973. It is anticipated that the OCA will be replaced by the *Ontario Not-for-profit Corporations Act, 2010* (the “**ONCA**”) by the end of 2020 or early 2021.

The Corporation’s Governance Committee has been actively involved in the creation of a new By-Law No. 1 that ensures the Corporation’s continuing compliance with the OCA, the ONCA, and legislation applicable to registered Canadian charities, meets the elements of best practice, and establishes the best governance structure for the Corporation. Once approved by the Board of Directors and the Members, the new By-Law No. 1 will replace the current By-Law No. 1 in its entirety.

The following are the major differences between the current By-Law No. 1 and the new By-Law No. 1:

### **Members**

**Membership** - The current By-Law No. 1 (Article 8) sets out two categories of Members: Full Members and Associate Members. The new By-Law No. 1 (Article III) maintains such categories but clarifies that only members of a Chapter will qualify for Full Membership, and that all Memberships will terminate on December 31<sup>st</sup> of each year.

**Suspension or Termination of Membership** –The new By-Law No. 1 clarifies that the Board of Directors has the authority to suspend or expel any Member for certain grounds listed in the By-Law (s. 3.5); the current By-Law No. 1 (s. 8.5) simply states that the Board can expel a Member.

**Proposals** – The new By-Law No. 1 (s. 4.3) highlights the right of a Member, pursuant to the ONCA, to submit notice of any matter that the Member proposes to raise at the annual meeting. This notice must be submitted in accordance with the ONCA and its Regulations.

**Quorum** – The existing By-Law No. 1 sets quorum of a meeting of the Members at **10 Full Members present in person**. The new By-Law No. 1 (s. 4.9) sets quorum at **50 Full Members**, who may be present in person, or represented by a proxyholder, or participating by teleconference or other electronic means. In addition, the new By-Law No. 1 requires quorum to be maintained throughout the meeting in order for business to be conducted.

**Notice of Members’ Meeting** – In accordance with applicable legislation, the new By-Law No. 1 (s. 4.5) requires notice of any Members’ Meeting to be sent to each Member entitled to vote, each Director, and the Corporation’s auditor. A notice must be sent ten to fifty days prior to the meeting.

## **Directors and Officers**

**Composition** - Section 5.1 of the new By-Law No. 1 specifies that to the furthest extent possible, the composition of the Board of Directors shall be representative of all of the Chapters, and removes the current requirement that one Director must be the chairperson of the Presidents' Council.

**Purpose of the Board** – Section 5.1 of the new By-Law No. 1 requires the Board of Directors to create, approve, and regularly review governance policies and procedures that ensure that the Board cultivates feedback from the Corporation's stakeholders and operates in the best interests of the Corporation and, to the furthest extent possible, such stakeholders.

**Qualifications** – Section 5.2 of the new By-Law No. 1 sets out the list of characteristics that will disqualify someone from being a Director. This list is reflective of applicable legislation and is more expansive than the list currently set out in Section 4.2 of the existing By-Law No. 1.

**Terms** – The new By-Law No. 1 (s. 5.3) states that Directors shall have a three-year term and may not serve for more than six consecutive years (except for individuals who are serving as officers – such individuals may be re-elected for the same length of term remaining in their officer positions).

**Resignation by a Director** – The new By-Law No. 1 (s. 5.5) sets out a list of events that will constitute a deemed resignation of a Director, including missing three consecutive meetings of the Board, violating the policies and procedures of the Corporation, and being charged with a criminal offence.

**Officers** – The new By-Law No. 1 (s. 7.1) requires the appointment of the following officers: President (who shall be referred to as the "Chair" once the ONCA comes into force since the OCA currently requires a President to be appointed, but the ONCA requires a Chair to be appointed), Secretary, and Treasurer. Currently, a Past-President is also required to be appointed. Section 7.3 of the new By-Law No. 1 sets a two-year term, and a maximum of three consecutive terms, for every officer; the current By-Law No. 1 (s. 5.1) sets a two year term for the President, Vice-President, and Past-President, but a one year term for all other officers.

## **Chapters**

**Establishment** – The new By-Law No. 1 (s. 12.1) clarifies that the Board may establish regional offices, from time to time, to carry out the Corporation's objectives in a city or region, or a group of cities or regions, within Ontario. Each office shall be known as a "Chapter". Each individual working for or with a Chapter shall be an employee, contractor, or volunteer of the Corporation, and shall be covered by the insurance policies of the Corporation.

**Chapter Leadership** - The new By-Law No. 1 (s. 12.4) states that each Chapter shall be managed by an employee of the Corporation, in consultation with a regional advisory council. Every employee, contractor, and volunteer of a Chapter shall be accountable to the Board of Directors. No Chapter shall be an autonomous or separate legal entity. Each Chapter will be a regional representation of the Corporation and the Board of Directors will have the ultimate authority to establish policies governing the Chapters and to determine

whether a Chapter should be created, closed, moved, aligned, or restructured, consistent with organizational ends and the charitable purpose of the Corporation.

### **Miscellaneous Terms**

**Presidents' Council** – All reference to the Presidents' Council has been removed from the new By-Law No. 1.

**Liability and Protection** - Further language is provided in the new By-Law No. 1 (Article IX) regarding the objective standard of care imposed on Directors and officers, and the protection that can be offered to Directors and officers by the Corporation (e.g. indemnification, advances, and insurance).

**Dispute Resolution** - Dispute resolution mechanisms applicable to Members, Directors, and officers are provided in the new By-Law No. 1 (Article XI).