

MEMORANDUM



TO: CUASA Members
FROM: Angelo Mingarelli, President
DATE: June 25, 2021
RE: **FIRST NOTICE:** Proposed Constitutional Amendments

In accordance with Article XIV of the [CUASA Constitution](#), notice is hereby given that a vote will be held on a series of proposed amendments to the Constitution. This is the first of two notices. As required by Article XIV, these amendments were passed by a majority of CUASA Council at a special meeting on June 24, 2021.

Information on the proposed amendments can be found below.

We will be holding two information session on:

TUESDAY, JULY 13, 2021, from 10:00am to 12:00pm and

THURSDAY, JULY 15, 2021, from 1:00 to 3:00pm

(Zoom details to follow)

The vote will be administered electronically from:

MONDAY, JULY 26, 2021, at 12:00pm to

WEDNESDAY, JULY 28, 2021, at 12:00pm

Voting information will be distributed via email to all eligible voters prior to the opening of the polls.

Note: Only members who have joined the Association are eligible to vote. Membership in the bargaining unit is not the same as membership in the Association. To confirm your eligibility, please contact Deborah Jackson at deborah.jackson@cuasa.ca.

The vote will consist of three separate questions. Each question requires a 2/3 majority of those voting to be approved. Voters will be asked to respond “In favour” or “Against” to the following:

1. I agree to the proposed amendment of Article IV of the CUASA Constitution proposed in Revision 1.
2. I agree to the proposed amendment of Article XII of the CUASA Constitution proposed in Revision 2.

3. I agree to the proposed amendment of Article XIV of the CUASA Constitution proposed in Revision 3.

If you have any questions, please contact the CUASA Office at cuasa@cuasa.ca.

Rationale for Proposed Amendments

As a result of the COVID-19 pandemic, public health restrictions limited the ability of CUASA to hold in-person meetings or votes in 2020 and 2021, necessitating the move to virtual meetings and e-voting. Post-pandemic, CUASA may want to continue to have the option to hold virtual meeting and e-votes.

As well, 2021 is a bargaining year for CUASA. However, at present, the CUASA Constitution does not allow for either strike or ratification votes to be held electronically.

In addition, in 2020, CUASA specifically passed an emergency temporary by-law to allow for its General Meeting to be held virtually with electronic voting. There is now a desire to regularize this temporary provision.

As a result, the Steering Committee, with the assistance of external counsel, has reviewed CUASA's Constitution and Bylaws and proposed amendments to both documents in order to allow CUASA to have the option to regularly conduct its business virtually in a variety of circumstances, including ratification votes, strike votes, Council and committee meetings, and general membership meetings.

As noted, CUASA is currently in bargaining. However, if the current COVID-19 restrictions remain in place, and CUASA either reaches a deal or reaches an impasse in bargaining, there is no mechanism for holding ratification or strike votes virtually since, pursuant to Article XII of CUASA's Constitution, ratification or strike votes can only be held in person at present. As a result, there is a pressing need to amend the Constitution to provide for electronic ratification and strike votes.

In the view of external counsel, so long as an electronic ratification or strike vote can be conducted in such a way that it is secure and allows for a secret ballot, there is no statutory bar to electronic voting in those circumstances. In many ways, electronic voting can be more convenient and provide greater opportunity for all members to participate, particularly in light of current COVID-19 restrictions. Additionally, there are numerous examples of unions in Ontario that have held ratification votes electronically recently.

The following proposed amendments to Article XII, allow for the use of electronic ratification and strike votes, and other consequential amendments, such as the extension of the voting period from one-day to 48 hours.

In addition, there are two other proposed Constitutional amendments. The proposed amendment to Article IV, is a housekeeping/clarification amendment that clarifies that the President has the authority to resolve disputes regarding the interpretation of the Association's Constitution *and* Bylaws. External counsel advises that this power is already

implied in the current drafting of the provision, but that the addition of “or bylaws” will resolve any ambiguity.

The proposal to amend Article XIV of the Constitution is to remove the restriction on making Constitutional amendments during the summer months. This provision has proved challenging in the current situation when the need to amend the Constitution promptly to allow for electronic ratification votes arose. In urgent situations, there may be a need to amend the Constitution regardless of the time of year. As well, the provisions for electronic voting ensure that the membership can fully participate in votes on constitutional amendments regardless of the time of year.

Please note: While Article XIV currently prohibits amendments to the Constitution during the summer months, both CUASA Steering and Council decided that it is essential that these amendments be put to the membership at the earliest opportunity. Thus, at a special meeting on June 24, 2021, CUASA Council passed the following motion:

MOVED (C. Dion/E. Urbain) that CUASA Council temporarily lay aside, while still under emergency and public health orders, application of Article XIV (2) of the CUASA Constitution so that a member-wide referendum on necessary Constitutional changes may be held, in preparation for an electronic ratification vote of the Collective Agreement by the membership to be held during the present summer period, if necessary.

Proposed Amendments to the CUASA Constitution

Revision 1: *Article IV*

Article IV: Council

...

- 12) The President of CUASA shall resolve any dispute of the interpretation of the Association’s constitution or bylaws, subject to the approval of Council at the first opportunity - with the President voting only in the case of a tie.

Revision 2: *Article XII*

Article XII: Collective Agreements Ratification

...

- 2) Unless otherwise specifically provided for in The Ontario Labour Relations Act and the Regulations made thereunder, ratification votes shall take place according to the following procedure:

- i. One or more informational meetings to explain and discuss the terms of the proposed collective agreement shall be held, on not less than forty-eight (48) hours' notice, at least one week prior to any ratification vote.
- ii. Ratification votes shall be by secret ballot and shall be open to all members of the bargaining unit. ~~and there shall be provision for advance polls.~~
- iii. Regular balloting shall take place over 48 hours but shall not take place on weekends. during a single working day, from 9:30 a.m. to 4:30 p.m., and shall be conducted through the use of the ballot box.
- iv. Subject to the requirements of The Ontario Labour Relations Act, Council may decide by majority vote of those present to hold a ratification vote either by paper ballot or electronically.

...

- 4) Except where otherwise provided for in The Ontario Labour Relations Act and Regulations made thereunder, authorization for strike or collective job action of any type by members, or the end thereto, Association work action of any type shall be granted by a simple majority of members of the Association voting by secret ballot. Council may decide by majority vote of those present to hold a strike or job action vote either by paper ballot or electronically.

Revision 3: Article XIV

Article XIV: Amendments

- 1) Council shall give notice in writing of all proposed amendments to this Constitution to all members of the Association on at least two occasions not less than fourteen (14) days apart and an electronic ballot of the members of the Association on proposed amendments shall be conducted not less than fourteen (14) days and no more than twenty-eight (28) days after the second notice. A majority of two-thirds (2/3) of the votes cast shall be required to bring the proposed amendments into effect.
- ~~2) No votes for the amendment of this Constitution shall take place in the period from May to August inclusive of any year.~~
- ~~3) 2) A proposal to amend the Constitution requires the endorsement of 15 members of CUASA drawn from at least two faculties and must be submitted in writing to the CUASA office 2 weeks prior to a meeting of Council to be placed on the agenda. Any such proposal shall first be passed by a majority of Council members in order for it to be put to a membership referendum.~~