

MEMORANDUM



TO: CUASA Members
FROM: Angelo Mingarelli, President
DATE: April 12, 2022
RE: **SECOND 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 second of two official notices (the first was given on March 29, 2022). As required by Article XIV, these amendments were endorsed by 15 members of the Association and subsequently passed by a majority of CUASA Council at its meeting of March 24, 2022.

Information on the proposed amendments can be found below.

We will be holding two information sessions on:

THURSDAY, APRIL 14, 2022, from 1:00-3:00PM (register [here](#)) and

WEDNESDAY, APRIL 20, 2022, from 10:00AM to 12:00PM (register [here](#))

The vote will be administered electronically from:

WEDNESDAY, APRIL 27, 2022, at 12:00pm to

FRIDAY, APRIL 29, 2022, 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. If you haven't filled out your membership card yet, or aren't sure if you've filled one out before, you can do so using the form found [here](#).

The CUASA Office must have received your membership application by 4:30pm on Monday, April 25, 2022, for you to be eligible to participate in the vote.

The vote will consist of five 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 V and Article VI of the CUASA Constitution proposed in Revision 1.
2. I agree to the proposed amendment of Article XIV of the CUASA Constitution proposed in Revision 2.

3. I agree to the proposed amendment of Article XII of the CUASA Constitution proposed in Revision 3.
4. I agree to the proposed amendment of Article IV of the CUASA Constitution proposed in Revision 4.
5. I agree to the adoption of the new Article XV of the CUASA Constitution proposed in Revision 5.

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

Proposed Revisions to the CUASA Constitution

Note: Proposed deletions are indicated using ~~strike through~~, and proposed additions are indicated using underline.

Rationales for each proposed revision are also included.

Revision 1: *Article V and Article VI*

Article V: Steering Committee

- 1) There shall be a Steering Committee of the Council consisting of the following:
 - a. President
 - b. Vice President
 - c. Past President
 - d. Treasurer
 - ~~e. Communications Officer~~
 - f. e. External Relations Officer
 - ~~g. f.~~ f. Salary and Benefits Officer
 - ~~h. g.~~ g. Chair, Nominations and Elections Committee
 - ~~i. h.~~ h. Chair, Collective Bargaining Committee
 - ~~j. i.~~ i. Chair, Grievance Policy and Administration Committee
 - ~~k. j.~~ j. Chair, Internal Affairs Committee
 - ~~l. k.~~ k. Chair, Equity Committee
 - ~~m. l.~~ l. Instructor Representative
 - ~~n. m.~~ m. Professional Librarian Representative

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Article VI: Officers

- 1) The Association shall have the following officers:
 - a. President
 - b. Vice President

- c. Past President
- d. Treasurer
- e. Chair, Collective Bargaining Committee
- f. External Relations Officer
- g. Chair, Grievance Policy & Administration Committee
- h. Salary and Benefits Officer
- i. Chair, Internal Affairs Committee
- ~~j. Communications Officer~~
- ~~k. j.~~ Chair, Equity Committee
- ~~l. k.~~ Chair, Nominations & Elections Committee
- ~~m. l.~~ Instructor Member Representative
- ~~n. m.~~ Professional Librarian Representative

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Rationale:

The Communications Officer position on CUASA Steering has been vacant for several consecutive years, and the current duties of the position listed in Bylaw 8, section 7 are viewed as redundant given the overlap with existing staff duties. Further, CUASA’s communications initiatives and current practices have evolved to no longer require the need of a dedicated volunteer to perform this service.

Revision 2: 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.

Rationale:

Several recommendations were made by CUASA's external legal counsel to update a variety of passages in the Constitution and Bylaws. The proposal to amend Article XIV of the Constitution is to remove the restriction on making Constitutional amendments during the summer months.

Article XIV was previously amended last summer for a time-limited application and for an emergency purpose so that the Constitution could be temporarily amended to allow for provisions for an electronic ratification vote. This provision proved challenging 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. Thus, Article XIV has been identified as no longer requiring a calendar restriction due to electronic voting capabilities.

Revision 3: *Article XII*

Article XII: Collective Agreements Ratification

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- 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.

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- 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.

Rationale:

In order to comply with the *Ontario Labour Relations Act*, CUASA asked external legal counsel to make some recommendations to ensure the Constitution would be compliant with the *Act*. This amendment was originally proposed last summer and was approved on a temporary basis due to the vote happening in the summer. CUASA is now seeking to make the change a permanent one.

There was previously no mechanism for holding ratification or strike votes virtually since, pursuant to Article XII, ratification or strike votes can only be held in person using a ballot box. The 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 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. Additionally, there are numerous examples of unions in Ontario that have also held ratification votes electronically.

Revision 4: Article IV

Article IV: Council

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- 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.

Rationale:

This amendment is another that was originally proposed and approved on a temporary basis due to the vote happening in the summer. CUASA is now seeking to make the change a permanent one.

This is another amendment proposed by CUASA's external legal counsel. 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.

Revision 5: Article XV

Article XV: Discipline for Misconduct

The Association may discipline members for engaging in misconduct including, but not limited to:

- Harassment/discrimination;
- Misappropriation of funds;
- Encouraging another member to take legal action against the Association before they exhaust internal remedies;
- Exposing confidential information about the Association;
- Breaching the confidentiality statement in Appendix A;
- Contributing to harassing, false, or defamatory comments about members of the Association; and/or
- Bringing false allegations of harassment or other misconduct without honest belief.

Any member who is found guilty of misconduct contrary to the Association's goals may be subject to discipline. Forms of discipline include, but are not limited to:

- Fine for misappropriation of funds;
- Reprimand;
- Suspension; or
- Expulsion.

Members shall only be subject to discipline following a fair investigation, with opportunity for an appeal, in accordance with the Member Conduct Policy.

Rationale:

CUASA had no policy addressing situations related to harassment, discrimination or alleged misconduct occurring between bargaining unit members during Association business or activities. On the advice of legal counsel, a CUASA Member Conduct Policy draft was presented to CUASA Council for adoption. This policy was approved by Council on March 24, 2022, and can be read [here](#). As part of the process of adopting this policy, CUASA's legal counsel recommended a new Article XV be added to the Constitution govern the subject of member misconduct.