



Executive Committee's Response to Proposed YUFA Constitutional Amendments

January 2019

Last update: 28 January

Summary and Recommendations

BACKGROUND

At the end of October 2018, Prof. Ida Ferrara submitted to the YUFA Executive a wide-ranging package of proposed amendments to the [YUFA Constitution](#), signed by 91 YUFA members. The package with 17 proposals can be found on the YUFA website (click [here](#)). It includes proposed changes that would significantly alter the objectives and purpose of YUFA, as well as its operations regarding meetings, voting, collective bargaining with our employer, and a number of other central aspects of the YUFA mandate.

The YUFA Constitution permits amendments to be submitted to the Executive Committee by 50 or more members. Amendments must be ratified by a two-thirds ($\frac{2}{3}$) majority of voting members via electronic voting. We invite members to discuss the proposed amendments and the Executive Committee's response at the YUFA Winter General Membership Meeting. Our membership meeting is scheduled for **Wednesday, February 13, 2019 from 10:00 a.m. to 1:00 p.m. in 152 Founders College**. Electronic voting will commence as soon as possible afterwards.

RESPONSE FROM YUFA'S EXECUTIVE: UNANIMOUS REJECTION OF THE PROPOSED CHANGES

The YUFA Executive has carefully reviewed these proposals and sought advice from legal counsel, from Stewards' Council, from the Ontario Confederation of University Faculty Associations, and from the Canadian Association of University Faculty Associations. **The YUFA Executive unanimously opposes these changes in the strongest possible terms and urges members to reject all the proposals except for one** – the last one, proposal 17 (change to Article 11). We have concluded that the proposals would substantially weaken YUFA as a faculty association and certified bargaining agent for our members. Evidence about other faculty associations and their constitutions helped us define our views on these proposed amendments to our constitution, and we will summarize these findings.

We have prepared a proposal-by-proposal explanation of our position that you can read in the Appendix on the YUFA website (click [here](#)). Here we summarize the general shortcomings of these proposals:

Purpose and objectives of the Association. The proposed changes to Article 1 fundamentally change what YUFA is and what it strives for. First, the altered wording abandons

YUFA members who are not full-time members (e.g., post-doctoral visitors, members on reduced load), who could, arguably, present a legal claim against YUFA for failing its “duty of fair representation” on their behalf. Second, seeking to advance our members’ compensation and working conditions through collective bargaining should not conflict with the well-being of the University. If approved, this amendment places YUFA in a situation where it may be obligated to defend the Employer’s interests rather than those of its members. This could influence YUFA’s ability to negotiate a contract or support any cause opposed by the Employer, as well as give rise to a “duty of fair representation” complaint at the Labour Board.

Meeting quorum. Under the proposal, the quorum for membership meetings would be doubled, giving YUFA the strictest quorum requirement among large faculty associations in Canada and making it very difficult to conduct the business of the Association. As a result, YUFA would meet obstacles in conducting its basic duties on behalf of its members.

Electronic votes. Currently, important YUFA decisions are made through electronic voting, including officer elections, budget approvals, constitutional changes, strike votes, and ratification of the collective agreement. The proposed changes substantially expand the realm of e-voting. In the proposed amendments, any motion raised at a meeting would proceed to an electronic vote. This procedural requirement is unprecedented in the university sector. There is a reason for this: it separates members’ decision-making about policy from the opportunity to deliberate and debate at meetings. It would move political interaction and decision making to online venues, which research and precedence show is likely to increase polarization and divisiveness. It will certainly promote disengagement since membership meetings would become less relevant.

The e-vote proposals are formulated in a way that fails to make the procedure clear: would amendments to a motion be allowed in a meeting, and would those be voted on electronically as well as the motion itself? And if an amendment fails, would a new vote be required? Would it include procedural motions, such as a challenge to the chair? Furthermore, transferring many votes to e-voting clearly disincentivizes members from attending meetings, which would make it even harder to achieve quorum (particularly if our quorum mandate were raised by 100%). The combination of raising quorum and moving decision-making to e-voting would make YUFA an ineffective and weakened Association. We would struggle to do our business according to the Constitution.

Procedural logic. The proposals are full of inconsistencies, cumbersome procedures, and proposals that simply do not make sense for those committed to belonging to a well-governed, effective, democratic Association. We provide a number of other illustrations in the detailed analysis in the Appendix (click [here](#)). Another example is the proposal to hold separate votes on the Association’s annual budget and on the fee structure necessary for the budget to be pursued. Moreover, the proposers want different levels of approval – regular majority for budget and

super-majority for fee structure – although these are interdependent decisions. What would happen if a budget were to be approved and then the fee structure on which it depends was defeated? Then another meeting would have to be called and a second electronic vote be held. How many YUFA members would attend not one, but two (or more) budget approval meetings?

Bargaining procedures. The amendments would introduce new detailed provisions for the regulation of the YUFA bargaining process that do not exist in any comparable faculty association's constitution. For example, the YUFA bargaining team would be required to negotiate for four weeks after a strike mandate vote was passed before a strike could be held, at which point the academic term would be nearing an end. Clearly, YUFA's leverage is lost in this scenario. This provision would be categorically required no matter how long YUFA has been in negotiations and whether our bargaining team believes that this strategy would succeed in producing a better bargaining outcome. Our lawyers have advised us that this and other provisions in the proposals regarding bargaining – such as punctuating bargaining with frequent votes about seeking arbitration – are unusual and that they could significantly weaken YUFA's bargaining power in negotiations with our employer. It is our informed view that if the proposed bargaining provisions had been in place for the last decade or two, YUFA members would today have much worse working conditions and remuneration.

We acknowledge that the proponents of these constitutional changes are concerned about the number of strikes at York in recent years and about the need for fuller and broader membership involvement in YUFA policy making and decision making. These are concerns we share. *However, these proposals do not offer effective solutions to these concerns. We argue this for the following reasons.*

First, YUFA has not been on strike since 1997. YUFA has not even held a strike vote since that year, i.e., for 22 years! While other Canadian faculty associations have held numerous strikes and strike votes in recent years, YUFA's record is as one of the most cautious faculty associations in our sector. In our last round of bargaining (settled in October), we were successful because members turned out to meetings to show their support for the YUFA bargaining team. Our successful motion to endorse a possible strike mandate vote if negotiations continued to stall was passed at a well attended General Membership Meeting. This vote sent a strong message to the Employer and we were able to negotiate a much better contract.

Second, we concur with the authors of these constitutional amendments that there should be more membership involvement in YUFA, and are committed to seeking ways of broadening the number of voices that are heard in YUFA. Consider the quality and frequency of reporting to our members during bargaining, including numerous unit visits by YUFA officers, frequent information and update bulletins, and other means of involving members. Since the fall, your Executive has been engaged with the conceptualization and design of a new website and

communication infrastructure that will make communication more energetic and more effective. It includes a blog for YUFA members that would cater to a diversity of views and provide a space for respectful, engaged, and open debate about the key issues that matter to us.

Although much work remains in promoting member engagement, we are certain that procedurally rigid constitutional requirements and mandatory frequent electronic referenda with unclear procedures are the wrong way to attain this goal. We believe that the energy spent on constitutional amendments such as those proposed would be better spent on engaging members and encouraging them to attend meetings and participate in YUFA activities.

Third, we are now working in a political climate in which governments and boards have no hesitation in altering our institutional priorities and practices. The strength of faculty associations to negotiate their own teaching and learning conditions is more vital than ever, as demonstrated this month by our employer's shocking [betrayal of their commitments](#) on pension indexation that both parties signed in the recent bargaining settlement. We need to gather together to work together, to maintain our collegial connections, and to defend our pedagogical and professional values. This is not the time to paralyze or weaken YUFA.

WHAT ARE THE NEXT STEPS?

The YUFA Executive strongly urges the membership to vote against all but one of these proposed amendments (see Recommendations below). Please see the Appendix for the YUFA Executive's full case against them (click [here](#)).

We also recommend that you take the following initiatives:

- Invite members of the YUFA Executive to speak with your colleagues and answer any questions related to the proposed amendments;
- Familiarize yourself with the materials – weigh the arguments offered by the YUFA Executive and the proponents of the amendments;
- Reach out to your department and unit Steward and organize a meeting of your colleagues to discuss the changes being proposed;
- Reflect on the positive gains that YUFA has secured with the Employer in recent rounds of bargaining such as salary increases, benefits improvements, and better working conditions, and whether major changes to the bargaining procedures in our association are wise in light of these gains; and
- Please attend, and encourage your colleagues to attend, the General Membership Meeting to discuss these proposals: **Wednesday, February 13, 2019, 10:00 a.m. to 1:00 p.m., 152 Founders College.**

RECOMMENDATIONS

The YUFA Executive unanimously opposes the proposed constitutional changes in the strongest possible terms and urges members to reject all the proposals except for one. We have concluded that the proposals would substantially weaken YUFA as a faculty association and certified bargaining agent for our members. We recommend that members **vote NO to proposals 1-16 and vote YES to proposal 17** (proposal 17 is the last item in the ballot – change to Article 11). Please see the Appendix for a detailed analysis of the proposals, our recommendations, and their rationale (click [here](#)).

QUESTIONS?

Relevant documents are on the YUFA website (click [here](#)). Direct questions and comments to yufa@yorku.ca.