



Executive Committee's Response to Proposed YUFA Constitutional Amendments

KEY MESSAGES

BACKGROUND

Prof. Ida Ferrara submitted a wide-ranging package of proposed amendments to the YUFA Constitution signed by 91 YUFA members. The 17 proposals can be found on the YUFA website (click [here](#)). The proposed changes would significantly alter the objectives and purpose of YUFA, as well as our operations regarding meetings, voting, and collective bargaining. Amendments to the YUFA Constitution must be ratified by a 2/3 majority of voting members via electronic voting.

We invite all members to discuss these proposed amendments at the **YUFA Winter General Membership Meeting on Wednesday, February 13, 2019, 10:00 am to 1:00 pm, 152 Founders College**. Electronic voting will start soon thereafter.

YUFA EXECUTIVE UNANIMOUSLY RECOMMENDS REJECTION OF THE PROPOSED CHANGES

We have sought advice from legal counsel, Stewards' Council, [OCUFA](#), and [CAUT](#), and studied other faculty associations and their constitutions. Following this advice, 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). If approved, the proposals would substantially weaken YUFA as a faculty association and certified bargaining agent for our members.

PURPOSE AND OBJECTIVES OF THE ASSOCIATION

The proposed changes to Article 1 fundamentally change what YUFA is and what it strives for:

- The amendment abandons YUFA members who are not full-time members (e.g., post-doctoral visitors, members on reduced load). They could present a legal claim that YUFA is failing its “duty of fair representation.”
- The troubling new language proposed by these amendments implies that seeking to advance our members' compensation and working conditions through collective bargaining and potentially job action may conflict with the well-being of the University. If passed, such language could be used to press YUFA 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,

and lead to a “duty of fair representation” complaint at the Labour Board.

MEETING QUORUM

The proposal is to double the quorum for membership meetings, giving YUFA the strictest per member 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 frequent obstacles in conducting basic duties on behalf of our members. Executive strongly believes in continuing our efforts to engage our members and we encourage everyone to participate in membership meetings.

ELECTRONIC VOTES

Currently, important YUFA decisions are made through electronic voting. These include 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 from the opportunity to deliberate and debate policies 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 would certainly promote disengagement since membership meetings would become less relevant.

The e-vote proposals have unclear procedures: Would amendments to a motion be allowed in a meeting, and would those be voted on electronically as well as the motion itself? If an amendment fails, would a new vote be required? Would it include procedural motions, such as a challenge to the chair? Expanding e-voting disincentivizes members from attending meetings, making it harder to achieve quorum. The combination of raising quorum and moving decision-making to e-voting would make YUFA an ineffective and weakened Association, that struggles to do business according to our Constitution.

PROCEDURAL LOGIC

These proposals are full of inconsistencies, cumbersome procedures, and proposals that simply do not make sense

for members committed to belonging to a well-governed, effective, democratic Association. We provide a number of other illustrations in our detailed analysis (click [here](#)). One 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 realized. 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 is likely to be nearing an end. 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 advise us that this and other provisions in the proposed amendments regarding bargaining – such as punctuating bargaining with frequent votes about seeking arbitration – are unusual and would 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.

RESPONDING TO CONCERNS

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:

- 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, our record is as one of the most cautious in our sector. In our last round of bargaining (settled last October), we were successful because members turned out to meetings. A motion to endorse a possible strike mandate vote if negotiations continued to stall was passed at a well-attended General

Meeting. This sent a strong message to the Employer and we very quickly got a much better contract.

- We concur that there should be more membership involvement, and are committed to 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.

- 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.

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). See detailed analysis of Executive's position in the YUFA website (click [here](#)).

QUESTIONS?

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