

# Bylaw Changes: November 2019 – May 2021

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Additions    ~~Deletions~~

## 1. November 15, 2019 (November Special General Membership Meeting)

### a) *Appendix H: Internal Sexual Assault Policy*

#### **10. Other Avenues of Complaint**

##### **CUPE NATIONAL TRIAL PROCESS**

The Trial Process is currently the only means available under the CUPE National Constitution that could potentially result in a binding finding of exclusion from union spaces. It should be noted that, considering the structure of the Trial Process, the local cannot guarantee that the Trial Committee will be composed of individuals who are adequately trained in issues of sexual violence. This process does not meet the survivor-centric nature, confidentiality, and conflict of interest standards outlined in this policy.

As a local, we will not use the current CUPE National trial process to address sexual violence.

At the 2019 CUPE National Convention, an amended trial process was approved. This new process includes an as of yet unspecified set of procedures for the handling of discrimination and harassment claims. It is projected to come into effect in 2020.

The Trial Process can be found in the CUPE National Constitution under Appendix B. XI.

##### **USING THE GRIEVANCE PROCESS**

The grievance process follows our collective agreements (Article 6). A grievance is always against the employer (York), and not an individual. Nothing in this policy is meant to remove responsibility from the employer for ensuring a workplace free from sexual violence.

Filing a grievance can be helpful when it is a matter of health and safety, for example keeping the survivor safer in their work environment. A successful grievance may be a way of ensuring a binding separation of parties in the workplace and/or York properties.

A grievance is filed against the employer and not the union. Consequently, settlements only apply to members as employees, and do not apply to member participation in union spaces. A survivor may choose to pursue a grievance along with other processes.

To initiate a grievance, the survivor or their representative must talk to staff. Staff can file a grievance without the presence of the survivor in the required meetings.

##### **EXTERNAL COMPLAINTS**

Survivors may opt to file a complaint that is external to the local, for example to York University, to the Human Rights Tribunal, or to the police. The local cannot get directly involved in these processes. Similarly, any finding under York's Sexual Violence Policy cannot be automatically applied to union spaces.

However, a survivor may still access any funds or supports offered by the local if they choose an external process.

## 2. January 9, 2020 (January General Membership Meeting)

### a) *Bylaw amendment: Appendix I – Confidentiality Rules*

#### **Appendix I - Confidentiality Rules**

These rules are meant to set out minimum guidelines, and apply to committee members, including Executive Committee members, and officers. This includes the Bargaining Team and any committees formed during bargaining mobilization and possible strike action. Individual committees/officers may make more stringent rules as they see fit.

#### **1. General Procedures**

All Executive/committee members or officers must sign the confidentiality agreement found here (Section 6). The Chairperson shall be responsible for ensuring Executive Committee members do so within two weeks of starting their term. The Vice Presidents shall do the same for members of other committees and officers within thirty days of assuming their position, and before any access to member information is granted. Signed confidentiality agreements will be delivered to the Recording Secretary to become part of the administrative records of the local.

Member information here is defined as information that includes but is not limited to email and home addresses, phone numbers, details of fund applications, disclosures of sexual violence and grievances. In general, any personal information provided by members to the local, which committee members and officers otherwise would not be privy to outside of their official duties should be considered member information.

The Chairperson shall facilitate the organizing of confidentiality training for the Executive Committee and the Vice Presidents shall facilitate the organizing of training for the other committees and officers. Confidentiality training, at a minimum, should consist of reviewing this Confidentiality Policy and ensuring those being trained are aware of their responsibilities under the policy. All efforts shall be made to provide confidentiality training before executive/committee members or officers are provided access to member information.

#### **a. Physical records of member information**

All physical notes, applications and other material that contains member information will be kept in locked offices, cabinets or otherwise secured storage when not in use. Such material will not be kept in open areas, accessible to the general membership/population.

Upon termination of term of office, an Executive/committee member or officer shall immediately transfer to their successor and/or place in secured storage, any material, containing member information. No Executive/committee member or officer shall keep material containing member information beyond the length of their term of office.

Once an Executive/committee member and/or officers have assumed their role, they will destroy all material containing member information that is older than seven years that has come

into their possession. Material shall be shredded and/or disposed of in confidential waste containers. The conditions of storage and the length of time records will be kept should be clearly communicated to members submitting information to the local.

#### **b. Electronic records of member information**

Electronic material including databases, downloaded emails and other files containing member information will be kept on devices secured, at a minimum, by a password and accessible only to the Executive/committee member or officer requiring the information to fulfill their duties. Portable harddrives such as USB flash drives containing member information shall be, at a minimum, secured by a password and/or stored in locked offices, cabinets or otherwise secured storage when not in immediate use.

Email communication likely to contain member information should be conducted through official email addresses authorized by the local. Any emails with member information sent to private email addresses in the course of union business should be forwarded to a successor or otherwise securely stored if needed for record keeping, and deleted from all personal devices at the end of the Executive/committee member or officer's term.

The confidentiality and data retention policies of all third party software/systems used by the local shall be available to members.

Once an Executive/committee member and/or officers have assumed their role, they will delete all electronic material containing member information that is older than seven years that has come into their possession. However, since electronic material is not as easily or thoroughly destroyed as physical material, alternative means of submitting information should be provided to members with concerns where practicable.

## **2. Executive Committee**

Executive Committee members may need quick and ready access to a large amount of member information, and may need to communicate this information with each other and staff in order to perform their duties effectively. The above general procedures will still apply.

Member information gained in private conversation/communication while acting as an executive officer shall not be shared unless necessary for the performance of executive duties, or unless the member whose information is in question is aware that the information will be shared.

Access to, and the information on, membership lists and other bulk databases of members shall only be accessible to current Executive members and staff.

Relevant information on membership lists and other bulk databases may be shared with committee members and/or officers provided it is necessary for the functioning of the committee or officer's duties (e.g., confirming eligibility for a fund). The Executive Committee member sharing the relevant information from the membership list/database shall share only what is necessary, and remove members' information not necessary for the functioning of the committee or officer's duties. The Executive Committee member sharing the membership list/database shall

ensure that those receiving the information treat it following the rules laid out in this policy and do not continue to have access to the information after their term of office.

The Stewards Council/Bargaining Mobilization Committee/Strike Committee may authorize the sharing of membership lists and other bulk databases with members for specific mobilization tasks. The body sharing the membership list/database shall ensure that those receiving the relevant information treat it following the rules laid out in this policy and do not continue to have access to the information after the task is complete.

### **3. Other committees/officers**

Committee members/officers shall use member information shared with them only for the purposes of their duties. No other uses of information are permitted. Anonymized information (information that would not identify the member in question) may be used when reporting on committee matters if necessary.

Committee members/officers shall not share member information revealed/gained in the course of the performance of their duties, unless it is necessary for the completion of their duties. This includes sharing of information with members of other committees, Executive Committee members, officers and/or staff. This does not preclude committee members discussing procedural issues in a manner that does not reveal personal member information.

Committees overseeing the distribution of funds will not reveal the names or other information of fund applicants unless it is required for the disbursement of the fund, and only to those necessary for the purposes of disbursement.

Committees overseeing the distribution of funds will store any records containing member information securely, and destroy records as outlined in this procedure. The conditions of storage and the length of time records will be kept should be clearly communicated to all those applying for funds.

### **4. Breaches of Policy**

If a member alleges that this policy has been breached, the allegation must be delivered in writing to a member of the Executive Committee within sixty (60) days of when the member became aware of the alleged breach. The Executive Committee member who received the complaint will then add it to the next Executive Committee agenda.

At the next Executive Committee meeting, the allegation shall be reviewed in an in camera session, and the Executive Committee will determine next steps. If the allegation is against an Executive member, that Executive member shall recuse themselves from the discussion and any resulting votes.

Next steps may include but are not limited to:

- Investigating the potential breach and revisiting the issue after the investigation,

- Dismissing the allegation,
- Establishing that the breach has occurred on the merits of the complaint.

If the Executive Committee finds, either in the original hearing of the allegation or after an investigation, that a breach has occurred, they shall then determine an appropriate remedy at the next Executive meeting.

The Executive Committee will provide a description of the next steps and/or remedies determined to the complainant, in writing, within five (5) business days of the Executive Committee meeting where the issue was discussed.

Appropriate remedies may include but are not limited to:

- Verbal and/or written warning,
- Verbal and/or written apology to the affected parties,
- Removal of access to member information for a set period of time.

In cases of serious breach, the committee member or officer who has been found guilty will be immediately removed from their position, and shall only receive the pro-rated honorarium for the work they have already completed until that point. They shall lose access to the remaining of the honorarium, reimbursements, or any other monies connected to the position.

If an Executive Committee member is found guilty of a serious breach of this policy, the breach will be announced at the next GMM. The honorarium of the said Executive Committee member will immediately be withheld for 2 months. The Executive Committee may consider calling a recall SGMM, if it is necessary to protect member information from further breaches as per Article 8.m of the local's bylaws.

## **5. Appeal**

If an Executive/committee member or officer found guilty of breach of this policy wishes to appeal, they may do so within 30 days of receiving the Executive Committee's decision. The appeal should be delivered in writing to the Recording Secretary. If the Recording Secretary is the appellant, the appeal should be delivered to the Chairperson. The appeal should state the incident in question and include an explanation of why the appellant disputes the finding of guilt and/or the punishment. The Recording Secretary or Chairperson is then responsible for ensuring that the appeal is added to the next GMM agenda. They will also request from the Executive Committee a written response to the appeal.

At the GMM, the written appeal from the appellant as well as the response from the Executive Committee shall be made available to the membership. The appellant will be given an opportunity to speak to the membership in favour of the appeal. If the appellant can not attend

the GMM, they may send someone to speak on their behalf. A member of the Executive Committee will be given an opportunity to respond to the appellant on behalf of the Executive Committee.

Any information in the written appeal and response to the appeal that reveals the identity of members other than the appellant must be redacted before being shared with the membership. The appellant or the appellant's representative and the Executive Committee member responding to the appeal will also be directed to refrain from identifying any members other than the appellant in any oral statements made at the GMM.

Once all parties have addressed the membership, a vote shall be called. The membership will vote on upholding the Executive Committee's finding of guilt of breach and/or the punishment. A simple majority will be required for the vote to pass; otherwise the decision will be overturned. The decision of the membership cannot be appealed.

## **6. Draft confidentiality agreement**

I, [name] acknowledge that as [position(s)] I may learn or have access to confidential member information. I acknowledge and agree to abide by the policies and procedures within the CUPE 3903 Confidentiality Policy (Bylaw Appendix H).

Both during and after my term, I shall not disclose, transfer or provide access to confidential member information to any third party except as outlined in the Confidentiality Policy. I shall use all such information for the purposes of fulfilling my role, and duties, within the local and no other purpose.

I shall not use any confidential member information, or access to such, to engage in any activity or allow others to engage in any activity that conflicts with the CUPE 3903 Confidentiality Policy (Bylaw Appendix H).

I acknowledge that any breach of the CUPE 3903 Confidentiality Policy is detrimental to local and I may be subject to discipline including loss of my position or legal action, in addition to any other remedies that CUPE 3903 may see fit.

I understand and agree that the CUPE 3903 Confidentiality Policy applies to my treatment of confidential member information gained during my term even when I am no longer in the position.

**Dated this \_\_\_\_\_ day of \_\_\_\_\_,**

\_\_\_\_\_ *month* \_\_\_\_\_ *year*

\_\_\_\_\_  
Signature of the Executive/committee member or officer

**Notice given:** September 19, 2019 General Membership Meeting.

<https://3903.cupe.ca/2019/09/11/september-gmm-sept-19th-tentative-agenda/>

**Website post:** <https://3903.cupe.ca/2020/01/13/updates-from-the-january-gmm/>

### 3. May 31<sup>st</sup>, 2021 (May General Membership Meeting)

#### a) *Article 10 (Committees - Affordable Housing Committee)*

##### **Affordable Housing Committee**

The York Affordable Housing Committee (AHC) is a coalition of students, staff, and faculty working towards the creation of affordable co-operative housing in the vicinity of York University. The committee works to build capacity and partnerships, conduct research, and apply for funding. CUPE 3903 is entitled to two (2) voting delegates.

Each delegate will be elected for a one-year term.

Honorarium: \$250 per year, per position

**Notice given:** <https://3903.cupe.ca/2021/03/09/annual-general-membership-meeting-march-16th-2021/>

##### **Results:**

#### b) *Appendix J (Casual Hiring Process for Councils, Committees, Working Groups, and Caucuses)*

##### **Appendix J – Casual Hiring Process for Councils, Committees, Working Groups, and Caucuses**

The hiring of casual labour by any of the Local's Councils, Committees, Working Groups, and Caucuses which possess a budget line or account must be performed in an open and transparent fashion.

The following process will be followed:

- The Council, Committee, Working Group, or Caucus will present a budget to either the General Membership or Caucus Membership for approval. This budget will include funds specifically earmarked for the hiring of casual labour.
- After the budget approval, a job description, including a list of responsibilities and expectations for the position, will be sent to the Chairperson and Treasurer to ensure compliance with the CUPE 1281-3903 Collective Agreement (CA) regarding casual employment. Should the responsibilities and expectations for the position overlap with existing CUPE 1281 job descriptions, the Chairperson or Treasurer will inform the entity wishing to hire about options to proceed, including, but not limited to: (1) the position needing to be rethought to ensure compliance with the CUPE 1281-3903 CA, (2) the securing of a waiver from CUPE 1281 to allow the position to go forward, or (3)

suggestion how existing staff members with relevant job descriptions could assist with the project.

- The Council, Committee, Working Group, and Caucus will then internally approve the posting and hiring protocol at a minuted, quorate meeting. The protocol must adhere to the Local's equity approach to hiring.
- The posting must contain, but is not limited to, the following: (1) the position title, (2) that the position is a casual hire, (3) the number of hours/hourly rate of pay or total compensation upon completion of project, (4) the job description, (5) a list of responsibilities and expectations, (6) required/recommended experience and work history, (7) whether CUPE 3903 members will be prioritized, (8) a description of a complete application package, and (9) a hiring timeline. The posting must be provided to the Communications Officer and publicly circulated.
- No member applying for the position or with a conflict of interest may take part in any discussions or decisions related to hiring. A conflict of interest is defined as any close relationship with an applicant that could influence the member's decision-making (positively or negatively). Where doubt exists that the relationship constitutes a conflict, the committee is empowered to decide whether a conflict exists and must record its reasoning. The following are automatically conflicts of interest:
  - a. Applicants and committee members who are relatives
  - b. Applicants and committee members who are or were intimate partners currently or in the past
  - c. Applicants and committee members who have lived together currently or in the past
  - d. Applicants and committee members who are or have been involved in legal proceedings with each other
  - e. Applicants and committee members who have an employment relationship with each other such that the applicant or member are the supervisor/employer of the other
    - A hiring decision, based on the entity's hiring protocol, must be approved at a minuted, quorate meeting of the Council, Committee, Working Group, or Caucus.
- Upon a hiring decision being reached, an offer of casual employment/contract will be created that must contain: (1) the position title, (2) the successful applicant's name, (3) the number of hours/hourly rate of pay or total compensation upon completion of project, (4) the termination date of the contract, (5) the expected work/projects they will complete, and (6) the name of who will be supervising them. The offer will be sent to the Treasurer for their signature and then forwarded to both the successful applicant and CUPE 1281 (as per Article 3.05.2 of the CUPE 1281-3903 CA). The total compensation offered within the contract cannot exceed the budget line for the hiring entity.

Casual hires cannot be used to allocate funds to compensate additional work performed by sitting committee members. Any such arrangement must be brought to the membership for approval of an increased honorarium.

**Notice given:** <https://3903.cupe.ca/2021/03/09/annual-general-membership-meeting-march-16th-2021/>

**Results:**