



# COMMON CONSTITUTION PROBLEMS

## Abstract

This document will assist you in writing your constitution and address common problems faced when developing your organization constitution

Student Community and Leadership Development (SCLD)

## Common Constitution Problems

**Conflict of Interest:** The Constitution should address the issue of conflict of interest for all members of the organization and outline procedures on how to deal with it. A **conflict of interest** can be defined as “a situation in which a person or organization is involved in multiple interests (financial, emotional, or otherwise), one of which could possibly corrupt the motivation of the individual or organization.” For procedure to deal with this issue you can refer to the ‘Allegations of Wrongdoing and Disciplinary Action’ section or you can keep the procedures separate.

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**Allegations of Wrongdoing & Disciplinary Action:** The Constitution should include provisions for dealing with allegations against any member of the Council. Provisions should include the circumstances which might dictate disciplinary action: censure, suspension, impeachment and should indicate whose responsibility it will be to hear allegations and/or dictate sanctions. The Council must ensure that the accused individual(s) is given a fair and timely opportunity to state their side of the case before a decision is rendered. It is advisable that whoever dictates the verdict is not only not part of the issue but is also a collection of people rather than just an individual.

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Your allegations of wrongdoing and disciplinary action section must state that the accused individual(s) is given a fair and timely opportunity to state their side of the case before a decision is rendered and that it is a council decision, not just one person’s decision.

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**Quorum:** You must add a section on quorum. This basically dictates how many people (out of your executive council) need to be present to have an official meeting in which things can be voted on, motions can be passed, and executive decisions can be made. Usually, this is about 50%-70% of your executive council, or you can present it as a fraction (ex. 4/6 members) if a percentage does not divide evenly.

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Your quorum cannot be “those present,” usually, this is about 50%-70% of your executive council, or you can present it as a fraction (ex. 4/6 members) if a percentage doesn’t divide evenly.

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**Interpretation:** Your interpretation section must simply say who will be in charge of interpreting your constitution in the event that someone doesn't understand something or a procedure needs to be clarified. Generally, the speaker of the organization, subject to an appeal to the council, is generally the first source for interpretation of the Constitution.

It should read something like: "The \_\_ (exec member) \_\_\_ of the \_\_\_\_\_ Student Association shall be the sole authority for the interpretation of the Constitution."

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**Club Name:** Your official club's name cannot have York or York University in front of it. May I suggest using the same name but moving the "York" to the end, so it reads "\_\_ Club @ York"

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**Ratification:** Please be advised you do not do your own ratification of your constitution; it is done by SCLD and/or YFS. You may say that after your executive council has amended your constitution (in an official amendment meeting with quorum) you will have the revised constitution ratified by SCLD and/or YFS. For example, "This constitution shall be enforced upon approval of this constitution by the Clubs Registration Committee (YFS) and the Centre of Student Community and Leadership Development."

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**Elections:** Your constitution states that you will be appointing members instead of having an election. This is not allowed unless you are a brand-new club who does not have outgoing members (and this is ONLY permissible in the very first year of existence).

Your constitution **MUST** state your plan for election processes for the end of the year going into the next year. It should be a democratic process that goes like this: People are nominated for each position (however you want to do it, by written note, by application process, by signatures of 10 York students, etc.); these are verified and the nominees become candidates; then the candidates are allowed to campaign for a certain period of time (usually a few days to a week or two); the campaign period ends and a voting period begins; people vote for who they want for each executive position (each person gets one vote per position, and anyone can vote or you can choose it to be only your general members that get to vote, executive members are NOT allowed to vote in elections); once ballots are cast, C.R.O. counts the votes and winners are announced. In the case of a tie, you may choose how to determine the winner. Please note executive terms may only last one year and executives may continue to hold a position only by re-election. Clubs and their executives become inactive as of April 30 with the new term starting as early as May 1<sup>st</sup>. The transitional period is usually during election period up until April 30.

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**Chief Returning Officer (C.R.O.):** You must implement a C.R.O. or Chief Returning Officer for your election. This is not optional. The C.R.O. should be an individual who is not on your executive council (they may be a past executive, or a general member of your club). You will need to add them as a position to your executive council however because you will want to list their duties/job description. What they will do is take care of everything from applications to nominations, to campaigns, and finally, to elections and counting votes/ballots. They will also deal with challenges to elections procedures and/or results (election tribunals are often recommended to deal with appeals and should not possess any conflicts of interest). They are there to make sure your election runs smoothly and can be appointed either at the beginning of the year, or just before your election process. They should have no other duties, and their term of office begins just before your elections and ends right after the winners are announced.

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**Membership:** Your registration/membership must be open to everyone. A good way to say this is “all current York students, faculty, and staff”. A small percentage of your membership can also be non-York students and alumni however it should not exceed 20%. Please be advised those that are eligible for membership must be a member of York University and/or be of legal age (i.e. 18 years or older).

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**Committees:** If you are to have committees in your club, for example, an event planning committee which reports to the VP of Programs, you should include a clause in your constitution something like this: “The organization is empowered to create various committees as it sees fit as long as the purpose, membership, and powers of said committee are clear and communicated to the organization beforehand.”

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**Names:** Your constitution must be free of all individual names and must only state positions, not people. The constitution will be used for years to come so there is no point in having names from previous years in it.

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**Dates and Years:** Your constitution must be free of all dates and years. The constitution will be used for years to come so there is no point in having dates from previous years in it.

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**Vice President:** Your Vice President should not simply have the duty of “filling in/replacing/assisting” the president with his/her duties. They should have other specific duties assigned to them as well, or you may find the person in this position doesn’t really get a chance to do much to help the council.

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**Funds:** Under your “Financial Responsibility” section, you should be stating what would happen to the funds in your bank account if your club were to fold for whatever reason.

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**Financial Responsibility:** This section will indicate: A. Which positions are the signing authorities of the organization, B. Who will assume responsibility for creating financial reports and will be maintaining the financial records, C. What would happen to the funds in your bank account if your club were to fold for whatever reason.

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**Complaints Process:** This section needs to provide provisions on how the organization addresses complaints against itself or its members. This should include how complaints are received, investigated, how decision-making works based on the investigation, and what resulting actions can take place. It is important to clearly identify how the process will be in line with the principles of Openness, Accessibility, and Democracy

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**Election Meeting Minutes:** Please refer to the ‘Sample Election Meeting Minutes’ found on the SCLD YUConnect page under ‘Documents’ (page 2) when creating the ‘Election Meeting Minutes’ for your club. Please remember to describe the duties of your CRO during this meeting. If an executive is outgoing and will not be returning, they can act as your CRO and count votes. Also please note if only one person ran for a position, write “uncontested” and “acclaimed” beside the position. If there is a vote between multiple candidates, you have to list the number of votes for each person.

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**Signing Authorities:** You can only have two signing authorities, and it is generally advisable to make one of them your Treasurer (because they will then be able to access the bank account, write cheques, etc.) and the other can be any other executive you like (usually the President/VP).

We require full mailing addresses by both signing officers, which includes city and postal code. For example,

**JOHN JONES**

**10-123 MAIN STREET**

**MONTREAL QC, H3Z 2Y7**

(10 is the unit/apartment/suite number)

Please be advised you can only be the signing authority of one student organization. Currently, [insert individual's name] is also a signing authority for [insert other student organization]. If [insert individual's name] chooses to be signing authority of [insert this student organization], then please email the name, e-mail, telephone number, student number and personal mailing address of the individual that will be taking over this role in [insert other student organization]. My email is [insert your e-mail]. If they give up their signing authority in this club, please resubmit the application with the information of the new individual in the signing officer's section.

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**Member List:** Your member list needs to have the first name, last name, e-mail address and student number of at least 15 current students at York University interested in joining your organization.

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**Chapter/Charity Letter:** The letter must be printed on the organization's letterhead, have the signature of your supervisor from the organization and must be current (i.e. May of this year onwards). It must also clearly state the following:

- a) Charity: It must say that the organization gives permission for your club to use their name and raise money on their behalf.
- b) Chapter: It must say that the organization authorizes you to use their name.

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**Overview:** In the Overview section of your application, you put the name of your signing authority under this section meant for the club's acknowledgement (i.e., I AM DULY AUTHORIZED TO BIND (INSERT NAME OF STUDENT ORGANIZATION)).

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**Sign Off:** Please be advised that the sign off at the end of your application is for both signing officers, not one. Please change this so both have signed off.

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**Bank Statement:** Please submit a bank statement as part of your application. If your bank account was closed for whatever reason, please submit a word document explaining the circumstances for why this happened in place of the bank statement. You will be expected to open an account for the new year.

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