



# Delinquency Control Policy

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[www.cupe-ewbt.ca](http://www.cupe-ewbt.ca)

CUPE Education Workers' Benefits Trust

La Fiducie d'avantages sociaux des travailleuses et des travailleurs de l'éducation du SCFP

## Purpose

The purpose of this policy is to set out that the CUPE Education Workers' Benefits Trust ("CUPE EWBT") has a clearly defined outlined method of monitoring and acting on the delinquency of payment by members or by school boards, in a manner that is appropriate in the circumstances, and is in the interests of all members and the sustainability of the Plan.

The policy contained in this document outlines the actions to be taken by the Administrative Agent ("Ontario Teachers Insurance Plan" or "OTIP") on behalf of the CUPE EWBT in the event of a failure to timely pay contributions by a member or school board. In addition to the procedures set out herein, the Trustees have the legal right to exercise all rights and pursue all remedies allowable at law and under the terms of the Trust Agreement, including but not limited to:

- a) The right to establish a date on which contributions are due;
- b) The right to conduct a review of the records of all employees of the employers required to contribute to the Fund, including but not limited to payroll records, timesheets, accounting information, and such other books and records of the employers that are necessary in order for an auditor to give an unqualified opinion that the proper contributions have been made;
- c) The right to conduct a random audit;
- d) The right to require that the delinquent employer pay the cost of a payroll audit or review, interest, legal fees, and any other expenses incurred by the CUPE EWBT in determining the amount of a delinquency and in collecting such delinquency;
- e) The right to recover liquidated damages; and
- f) The right to take all other steps and to perform all other acts that are necessary in order to collect contributions due to the CUPE EWBT in a timely and expeditious manner.

The procedures set forth herein shall be followed unless the Trustees determine that they should be waived in a particular instance.

The CUPE EWBT grants OTIP the authority to act on behalf of the CUPE EWBT to manage any delinquency according to the terms of this policy.

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Trust Agreement.

## 2.0 Definitions

“Employer Contributions” shall have the same meaning as in the Trust Agreement.

“Not Sufficient Funds (NSF)” means insufficient available funds in a bank account for which direct billing has been authorized.

“Pre-Authorized Debit (PAD)” means the method of direct billing employed by the Administrative Agent to collect a member’s share of premium from the member’s bank account each month.

“Premium” means the monthly cost of membership in the CUPE EWBT Plan.

## 3.0 Policy

### 3.1 Direct Billing – Member Delinquency

Most CUPE EWBT members are responsible for paying a defined portion of their monthly premium. Members are billed for their share of premium by OTIP via Pre-Authorized Debit (PAD) from their bank account. Members are responsible for maintaining their PAD information up to date.

A delinquent payment arises when OTIP is unable to collect a member’s payment, and includes, but is not limited to the following scenarios:

- There are insufficient funds (NSF) in the bank account provided for PAD;
- The member provides incorrect PAD information; or
- The member closes the bank account provided for PAD.

A payment will be considered delinquent if OTIP is unsuccessful in withdrawing the premium amount on the direct billing date (on the 15<sup>th</sup> of the month).

#### One Delinquent Payment: Insufficient Funds

It is recognized that there are many reasons one payment might be delinquent and that a member’s benefits coverage should not be affected by one delinquent payment.

Result of one delinquent member payment (insufficient funds):

- Member is notified of the delinquent payment and date and amount of the next attempt to withdraw funds;
- Warning that a subsequent failure to pay the total outstanding amount owing will result in suspension of benefits coverage;

- Withdrawal of delinquent amount, and the net month's premium on the next direct-bill date; and
- Benefits coverage remains in place.

#### One Delinquent Payment: Incorrect PAD or closed bank account

Members may enter incorrect bank information by mistake, or to circumvent the enrolment process when direct billing is required. An incorrect or closed account number means that OTIP is unable to process a current or future deduction. It is critical for PAD information to be entered correctly and kept up to date.

#### Result of one delinquent member payment (incorrect PAD or closed bank account):

- Member is notified of the delinquent payment and date and amount of the next attempt;
- Request for the member to update correct PAD information prior to the next direct-bill date (within 10 days of the next direct-bill date is recommended);
- Warning that failure to correct PAD information and a subsequent failure to pay the total outstanding amount owing will result in suspension of benefits coverage;
- Withdrawal of delinquent amount and next month's premium on the next direct bill date; and
- Benefits coverage remains in place.

#### Two Consecutive Delinquent Payment

If OTIP is unsuccessful in attempting to withdraw a second consecutive direct billing payment from a member's bank account, then the member's coverage will be suspended.

#### Result of two consecutive delinquent member payments:

- Member is notified of the suspension of benefits coverage, and how to proceed to re-instate;
- Benefits coverage is suspended effective the 16th of the second consecutive month after the first missed or insufficient payment;
- Member may reinstate benefits coverage by paying the outstanding premium amount within 90 calendar days of the suspension.

### Multiple Delinquent Payments

If a member has **four (4)** or more non-consecutive delinquent payments (for any reason), or more than one (1) instance of two (2) subsequent delinquent payments (the first instance having a corresponding suspension and reinstatement), OTIP will suspend benefits coverage, and:

- The member is notified of suspension of benefits coverage and how to proceed to re-instate;
- Benefits coverage is suspended effective the 16th of the most recent month of unpaid premium;
- The member may reinstate benefits coverage by paying the outstanding premium amount within 90 calendar days of the suspension.

### Request for Reinstatement after 90 Calendar Days

If a member requests reinstatement of coverage and pays the full outstanding premium amount within one (1) year of suspension, benefit coverage will be reinstated. The payment of full arrears to date of suspension is required prior to reinstatement of benefits coverage.

- If a member does not pay the outstanding premium amount within one (1) year of suspension, the member and any eligible dependents will need to apply via evidence of insurability or through a valid life event. The payment of arrears to date of suspension would be required and any coverage would be effective from the new eligibility date (evidence of insurability approval or valid life event).
- In addition to the process set out above, the CUPE EWBT may collect outstanding amounts using any and all legal means available.

### School Board Delinquency

- Each Participating Employer is responsible for paying Employer Contributions to the Administrative Agent on or before the 1st day of each month of coverage.
- Delinquent payments arise when a Participating Employer does not remit Employer Contributions by the 1st day of the month of coverage. Late payments may result in delinquency of payment to the insurer.

### Result of Delinquency by the Participating Employer

- If Employer Contributions are not received by the Administrative Agent by the 1st day of the month of coverage (the “Due Date”), the Administrative Agent shall notify the CUPE EWBT Managing Director of the delinquency within 10 days following the Due Date.

- If Employer Contributions are not received by the 30th day following the Due Date, the following steps will be taken:
  - a) The Administrative Agent shall deliver a notice of delinquency to the Participating Employer with a copy to the CUPE EWBT Managing Director and the applicable Trustees' Association, and the notice shall specify:
    - (i) The nature of the violation, including reference to the Trust Agreement and this policy and provisions which have been violated;
    - (ii) The amount of Employer Contributions payable as well as any interest thereon, calculated in accordance with section 8.1 of the Trust Agreement (2% above the Bank of Canada prime rate);
    - (iii) That immediate payment of the amount due is required; and
    - (iv) That failure to make payment may result in the Trustees commencing legal proceedings to collect the outstanding amounts.
- If within thirty (30) days of the delivery of the notice, the full amount due still has not been received, the Administrative Agent will notify the CUPE EWBT Managing Director, who will inform the Chair of the Board of Trustees and the applicable Trustees' Association of the continued delinquency. The Board of Trustees may, in their sole and absolute discretion:
  - a) Instruct the Trust's legal counsel to commence legal action; or
  - b) Take such other action as they decide is appropriate in the circumstances.
- If a Participating Employer becomes delinquent and the Trustees are required to take legal action or such other action as is determined appropriate to recover outstanding Employer Contributions, the Participating Employer shall be liable for all reasonable fees of collection, including all legal fees and disbursements, and any interest and liquidated damages in accordance with the Trust Agreement.
- If efforts to collect outstanding Employer Contributions fail, then the Board of Trustees may consider additional measures.
- Where a Participating Employer makes payment of the amount outstanding but not payment of the interest and other amounts owed, acceptance of the payment shall not constitute a waiver of the Trust's claim for such interest and any other amounts.

*Approved, December 10, 2020*

*Approved, April 27, 2022*