



# UNION MATTERS

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*My local works because I participate*

Date and time of General Membership meetings are posted at each worksite and at [www.cupe1169.ca](http://www.cupe1169.ca)

### Marijuana IS medicine

**“Every 19 minutes somebody dies of a prescription drug overdose.**

**It doesn’t happen with marijuana.”**

**Dr. Sanjay Gupta**



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## President’s Podium

### Legalized Marihuana in the Workplace

If marihuana is legalized in Canada how will that impact substance abuses in our worksites?

Both the Calgary Public Library and the Cochrane Public Library (CCPL) have a legal obligation to provide and maintain a safe work environment for their workers. However, the CCPL must understand and provide accommodation for those employees with disabilities up to a measurable undue hardship. The CCPL’s legal obligation will not change if the worker’s disability requires the use of medical marihuana. However, it is important to recognize and not overlook that the use of marihuana whether for medical or recreational use carries both a political and social stigma.

Currently, the possession of non-medical marihuana in all Canadian jurisdictions is unlawful as per the *Controlled Drugs and Substances Act*. The use of marihuana for medical purposes is permitted under the Regulations to the Act. In addition, our government has been very clear on its intention to legalize marihuana for both non-medical and recreational use.

What does this mean for the CCPL and their legal authority? In our worksites, the non-medical use of marihuana must continue to be treated in the same manner as all other forms of substance abuse under CCPL’s substance abuse policies. The boards of the CCPL have the legal authority to prohibit the use of marihuana by its workers during their hours of work, and to prohibit work attendance by any worker who appears to be impaired.

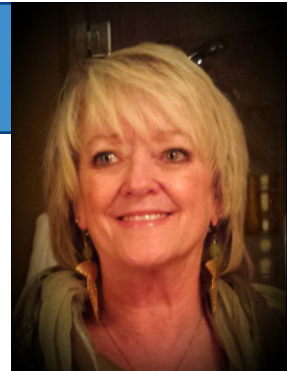
Any worker who violates the substance abuse policies may be disciplined up to and including termination. However, if a worker can prove substance use to be for physical or psychological dependency, it would constitute as a “disability” under both provincial and federal human rights legislation which would then require a “duty to accommodate” on the part of the CCPL.

Recent Canadian arbitrations have directed employers to reinstate unionized workers that have been terminated for substance abuse because of the employer’s failure to correctly accommodate the worker’s condition as a disability.

The CCPL must have policies in place allowing for the use of medical marihuana, when supported by medical documentation, as an accommodation. In addition, the CCPL continues to have the authority to prohibit impairment at the worksite, specifically in safety-sensitive positions such as driving or operating machinery.

If a worker is requesting an accommodation for medical marihuana they may be asked to provide detailed information which may include the frequency, dosage, and method of application as it relates to prescribed medical use.

There are no medical tests that accurately or even reliably measure the level of an individual’s impairment due to marihuana use, so how can impairment be proven? Also, human rights



legislation prohibits pre-employment and random testing for drug or alcohol impairment.

Currently, the CCPL do not have drug and alcohol policies that specifically address marihuana use at the worksite beyond the standard and limited "substance abuse" policy. Neither has a policy requiring a duty to disclose or the consequences of non-compliance; nor policies to specifically address marihuana dependency or a requirement for proof of prescription, supporting medical documentation, or a mandatory independent medical examination when appropriate.

In a recent arbitration in *Calgary (City) v. Canadian Union of Public Employees (CUPE37)* (2015, Alberta Grievance Arbitration Award) a City employee having been prescribed marihuana for medical purposes was removed from their position and placed in a non-safety-sensitive position. The union grieved the transfer demanding the worker be reinstated to their previous position. The arbitration ruled that the City had failed to prove that the

employee had substance abuse issues or that they were impaired while at the worksite. The employer failed to make a proper assessment of the worker and the impact of the use of marihuana on their duties. The worker was reinstated.

### Worksite Safety

Safety is often an employer's primary objection to marihuana in the workplace and safety cannot be disputed. Concerns regarding attendance and productivity may be associated with marihuana use; however, it is the crafting and implementation of policies directly identifying the usage of medical marihuana which will ultimately protect the worker from unjust discipline.

### Know your rights and follow the rules.

*In solidarity,  
Rh'ena Oake, President CUPE Local 1169  
Calgary and Cochrane Public Library Workers*

## Contract Corner: know your rights under the collective agreement



### Article 6 Grievance Procedure

6.01 A grievance is a difference between the Employer and the Union or an employee as to the interpretation, application, operation, or contravention of the Collective Agreement. A grievance shall state the facts upon which the grievance is based, the particular clause or clauses of the Collective Agreement that are the subject of the grievance and the remedy requested.

6.04 No grievance shall be considered by either party where circumstances giving rise to such grievance should reasonably have been known more than ten (10) working days prior to the first filing of the grievance. For the submission of grievances as provided herein, "working days" shall

be considered as the days on which the Library Administration Offices are open to the public for the transaction of regular business.

### What does this mean?

The union has received a number of calls in recent weeks asking for help with grievances. Unfortunately, we were not able to file a grievance against the employer because we were not informed of the situation in a timely manner. A grievance must be filed with the employer within 10 working days of the date of the infraction. In future, contact the union office **immediately** to begin work on the grievance. Additionally, members have asked us to file a grievance after receiving a poor performance evaluation. Unfortunately, performance evaluations are not part of the Collective Bargaining Agreement and therefore cannot be grieved.

*Respectfully submitted by,  
Terrill Budd, Chief Steward CUPE Local 1169*

## CUPE LOCAL 1169 AFFILIATES



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For comments regarding the newsletter, contact the union office

