

CVA Costs Allocation Recommendation

Background

At the 2023 Upper New York Annual Conference (UNY) session, a resolution was presented by the UNY Council on Finance and Administration on how to allocate costs from judgments, settlements, and legal fees incurred by UNY related to complaints filed against it and its local churches under the provisions of the Child Victims Act (CVA). That resolution sought to allocate these costs on a pro-rata basis to the unrestricted reserve funds of the UNY Board of Trustees, UNY Council on Finance and Administration, and the UNY Board of Pensions and Health Benefits. During the resolution discussion, an amendment to substitute was presented and approved. The substitute resolution, which called on the UNY Conference Leadership Team (CLT) to comprehensively examine every feasible funding source for payment of the CVA cases and present a recommendation to the 2024 session, was then adopted by the annual conference.

In response to the request from the annual conference session, the CLT created a task force comprised of a diverse group of UNY leaders and key stakeholders led by the Rev. Dr. Stephen Cady, to study the matter and provide a recommendation to the CLT¹.

After discussing the recommendation of the CVA Task Force, the Upper New York Conference Leadership Team presents the following recommendation to the 2024 Upper New York Annual Conference session.

Resolution

Whereas, the Child Victims Act (CVA), signed into law in August 2019, opened a window for the retroactive filing of civil cases by victims of childhood sexual abuse against entities and organizations like schools, churches, and annual conferences. The retroactive filing provisions of the law expired in August of 2021, and the final cases were served against the Upper New York Conference (UNY) and its local churches by the end of the same year. The total of cases filed against UNY and its churches was sixty-three (63), forty-six (46) of which named UNY or one of its churches as a defendant due to its association with a church-chartered Boy Scouts of America troop.

Whereas, absent an allocation formula, costs from judgments, settlements, and legal fees incurred by UNY to resolve CVA complaints have been paid out of the conference's available cash, creating a negative fund balance that must be reconciled.

Whereas, because UNY views its response as an act of restorative justice, which involves understanding, acknowledging, and repairing the harm done to survivors wherever

¹ see attached, *Report of the CVA Task Force to the Conference Leadership Team*

possible, UNY seeks to achieve a just resolution while remaining good stewards of all God has entrusted to us.

Whereas, the UNY Board of Pensions and Health Benefits has unrestricted reserve funds, and a portion of these unrestricted reserve funds, *in excess of pension liability*, is available for this allocation. (“In excess of pension liabilities” means net assets minus unfunded pension liabilities.²)

Whereas, reallocating the above-mentioned unrestricted reserve funds *in excess of pension liability* in no way negatively impacts or reduces vested pension funds held by Wespath for current and future UNY retirees.

Therefore, be it resolved that all past and future costs from judgments, settlements, and legal fees incurred to resolve CVA complaints be allocated first from the unrestricted reserve funds of the UNY Board of Pensions and Health Benefits and that the amount of funding from this source be limited to the *unrestricted reserves in excess of pension liability as of 12/31/2023.*

Be it further resolved if costs exceed the amount made available from the reserve funds identified above, additional funding will be allocated from the unrestricted reserve funds of the Conference Board of Trustees and the operating reserves managed by the Conference Committee on Finance and Administration.

Be it further resolved the CLT, in consultation with The General Board of Church and Society of The United Methodist Church and the UNY Social Holiness team, ensures a comprehensive set of resources are developed and deployed to educate UNY leaders and congregations on restorative justice.

Be it further resolved that all UNY congregations review their Safe Sanctuary policy, procedures, and practices and ensure they are being acted on faithfully to promote a secure environment for all, providing physical, emotional, and spiritual safety and fostering trust within the community.

Respectfully submitted by the Upper New York Conference Leadership Team:

- Bishop Héctor Burgos Núñez
- Jessica White, Conference Lay Leader
- Pastor Liz Aristy, At-large
- Rev. Sara Baron, Conference Board on Pension and Health Benefits
- Dr. Scott Johnson, Conference Commission on Religion and Race
- Rev. Pam Klotzbach, Board of Trustees
- Lindsay Martin, At-large
- Rev. Carmen Perry, Board of Ordained Ministry
- Holly Roush, Conference on Finance and Administration Chair
- Rev. Drew Sperry, At-large
- Teddi Urriola, Equitable Compensation

² See attached, *2023 Balance Sheet for CBPHB Funds, Unaudited.*

- Rev. Mike Weeden, Dean of the Cabinet
- Rev. Dr. Aaron Bouwens, Director of Missional Excellence
- Rev. Bill Gottschalk-Fielding, Assistant to the Bishop
- Bob Flask, UNY Treasurer
- Shelby Winchell, Director of Communications

CVA Cost Taskforce Members

- Peter Abdella, Upper New York Conference Chancellor
- Rev. Sara Baron, Chair of the Conference Board on Pension and Health Benefits
- Rev. Dr. Michelle Bogue-Trost
- Rev. Dr. Aaron Bouwens, Director of Missional Excellence
- Rev. Dr. Stephen Cady II
- Bob Flask, Conference Treasurer
- Rev. Bill Gottschalk-Fielding, Assistant to the Bishop
- Dr. Scott Johnson, Conference Commission on Religion and Race
- Rev. Pam Klotzbach, Conference Chair of Board of Trustees
- Holly Roush, Conference Chair on Finance and Administration
- Jessica White, Conference Lay Leader

Report of the CVA Task Force to the Conference Leadership Team

The Charge

“That the Conference Leadership Team be tasked with providing a comprehensive examination of every feasible funding source (i.e., sale of conference property, temporary changes in the church sale proceeds formula, etc.) for payment of the CVA cases (settlements and legal fees) to be reported back with recommendations to this body no later than Annual Conference 2024. In the meantime, the sources of any funds spent in the next year on the resolution of CVA cases must be tracked and understood that such funds may be restored by the Annual Conference.”

Values we centered in our work together:

- Confidentiality
- Do what is right.
- Prioritize the overall well-being of the Conference over individual concerns and opinions or competing agendas.
- Pursue the path of the least amount of mid-long-term disruption to the operations and ministry of the Conference.
- Recommendations will be made based on facts, best practices, and the collective wisdom of the task force.
- We will approach our work with mutual respect for one another, assuming the best intentions. Be gentle with one another.
- This is the sacred work of restorative justice.

Report

Through a series of meetings held via Zoom and in-person (10.26.23, 11.16.23, 11.30.23, 12.14.23, and 1.5.23), the task force wrestled with this primary question: How do we complete the weighty work with which this group has been tasked, understanding that these settlement costs represent only a token of recompense for the survivors of abuse. We also knew that the costs to the Upper New York Annual Conference must be considered with great care. We keenly felt the serious nature of this work and the deep emotions surrounding it and developed our core values accordingly. We understood from the outset that there would be no perfect solution, and no solution which would be acceptable to everyone. We prayed for clarity as we began our task of discerning the best way forward for both the survivors of abuse and for the Conference. We sought prayer support from the Conference through an appeal in the weekly news, and many of us were gratified that some people contacted us directly offering that support.

In our discussions, we were willing to put all possible solutions “on the table,” knowing that sacrifices would be inevitable. Resources considered included sales of Conference property, including camps and the Conference Center, NFC funds, pension reserve funds, and general budget reserves, among others.

After much careful deliberation, soul searching, and difficult conversation, the task force reached a unanimous decision to propose that the settlement costs and legal fees for

the CVA plaintiffs be addressed in this way: The first source of funding for the settlement costs and legal fees for the CVA plaintiffs would be the reserve funds of the Board of Pensions and Health Benefits. The amount of funding available for this would be the pension reserves *in excess of liability*. The next source of funding would be the reserve funds of the Trustees and the Conference Committee on Finance and Administration. These funds would be tapped after the Board of Pension Funds in excess of liabilities were exhausted.

While it sounds very much like the original legislation proposed to UNYAC, it differs in one respect: We propose that the funds taken from the Pension Reserves *may only be drawn in an amount that represents the excess beyond projected liability*. Given the numbers we were presented with, this might cover what is expected to be the full cost of the settlements.

In reaching this recommendation it was noted that the legislation passed at Annual Conference 2023 that led to the development of this task force was unclear in its proposals and was not fully understood by many in attendance. While we believe the attempt was not harmful in intent, the shock of many hearing “Pension Fund” affected the rest of the conversation about our necessary obligations in the CVA cases.

We propose that the language “pension reserves in excess of liability” as a first option be incorporated into any legislation, petition, information dissemination, and conversation regarding the payment of settlements and legal fees and our obligations, and that the CLT ensure that there is ample explanation and illustration provided both before and during the 2024 Annual Conference session.

After our work was completed, the Conference Board of Pensions and Health voted to approve our proposal with a caveat—they would like to suggest that the money taken from the pension reserve fund be restored via an adjustment to the sale of church properties formula (50% going to this repayment) until it is restored, likely over several years/decades. This would need to be approved by the Conference Trustees for it to become a reality. We leave this decision and the related work in the hands of the CLT and Conference Trustees.

Respectfully submitted on behalf of the CVA Task Force,

Rev. Dr. Michelle Bogue-Trost

UPPER NEW YORK ANNUAL CONFERENCE
BOARD OF PENSION & HEALTH BALANCE SHEET
AS OF 12/31/2023 (UNAUDITED)

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**BOARD OF PENSION &
HEALTH**

Assets

Investments	\$34,687,516
Accounts Receivable - Benefits & Insur.	\$416,504
Interfund Accounts	\$8,631,191
Total Assets	\$43,735,211

Liabilities

* Accrued Payables (HRA Liability)	\$17,944,310
Total Liabilities	\$17,944,310

Net Assets

Unrestricted	\$13,374,064
Unrestricted Designated	\$7,052,675
Disaffiliation funds	\$2,659,418
Temporarily Restricted	\$187,440
Permanently Restricted	\$2,517,304
Total Net Assets	\$25,790,901

Total Liab. & Net Assets	\$43,735,211
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Total Net Assets	\$25,790,901
Unfunded Pension Liab. At 12/31/23	(\$17,925,261)
Total unrestricted reserves in excess of pension liability	\$7,865,640

* The HRA liability is already recorded by the Conference as a liability and is noted above as a line that already is reduced from total assets to get total net assets.