



**Federal Bar Association  
National Council Meeting**

**Midyear Meeting 2018**

Saturday, March 24, 2018 at 2:15 p.m.

The Ritz-Carlton Pentagon City  
Arlington, VA



# Federal Bar Association

## Governance Summary

### National Board of Directors

The national Board of Directors serves as the Federal Bar Association's governing body. The Board oversees the business and financial management of the Association and performs other functions, such as setting policy, that it may consider necessary to accomplish the objectives of the Association. The Board of Directors consists of the President, President-elect, Treasurer, twelve elected directors, up to three *ex officio* (non-voting) members (if not already elected to the board) Chair of the Vice Presidents for the Circuits, Chair of the YLD, and Chair of the Sections and Divisions Council. The immediate past-president may attend board meetings as an *ex officio* member at the invitation of the current president. The Board of Directors generally meets in person four times per year, including one meeting held in conjunction with each of the Annual and Midyear Meetings, and additionally meets by teleconference as required.<sup>1</sup>

The Board of Directors' authority is limited only in the following ways:

- (1) Amendments to the Association's Constitution and Bylaws must be considered and reported-on by the Constitution, Bylaws, Rules, and Resolutions Committee, approved by both the Board of Directors and the National Council, and in the case of amendments to the Constitution, approved by the membership;
- (2) Any decision of the Board of Directors may be altered, amended, or reversed by a majority vote of the National Council; and
- (3) The Board of Directors and National Council establish annual dues for members and associates, which dues adjust automatically from time-to-time under the Bylaws.

### National Council

The President chairs both the Board of Directors and the National Council. The National Council is currently composed of approximately 345 members. The National Council members are selected by elected position or appointment. A quorum of the National Council is established when twenty-five percent of the members of the National Council in good standing are present. Over the last several years, an average of 35% of the National Council members have attended the National Council meeting. The National Council consists of the following members:

- All members of the Board of Directors
- All Past National Presidents
- All Circuit Vice Presidents
- Chairs of all Divisions, Sections, and Standing Committees
- President of the Federal Bar Building Corporation
- President of the Foundation of the Federal Bar Association
- General Counsel of the Federal Bar Association
- The ABA Delegate
- Every Chapter President or other Chapter officer as designated by the Chapter President
- One other delegate from each Chapter to be selected by the Chapter
- Not more than 20 members to be appointed annually by the President

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<sup>1</sup> Also, the current practice is for the Executive Committee, consisting of the President, President-elect and Treasurer, to meet telephonically with the Executive Director and the General Counsel on a monthly basis.



# Federal Bar Association

## **Policy No. 1-9: National Council Standing Rules**

**Approved By:** Board of Directors

**Date Approved:** September 7, 2011

**Date Effective:** September 7, 2011

### **Policy:**

The Federal Bar Association's Constitution and Bylaws govern assemblies of the National Council. Where these documents are silent, the current edition of *Robert's Rules of Order Newly Revised* applies, per the Bylaws. Pursuant to Robert's Rules of Order and the National Council's past practices, please note the following

1. The chair must recognize a speaker before that speaker's comments are before the body.
2. Except as permitted by Robert's Rules, speakers are not to be interrupted. Person wishing to speak should remain seated until a speaker concludes. Rising from a chair first does not give priority unless the chair instructs persons wishing to speak to approach the microphones. Priority is given to those who have not spoken.
3. Approach the microphone to be recognized. A speaker must state name and position prior to making comments.
4. Prior to making a motion, a speaker should 1. Be recognized and state his or her name and position; 2. Approach the microphone; 3. State name and position; and 4. Hand the written motion to the Chair. A determination will be made as to whether the motion is in order based on the content of such motion before debate shall begin.
5. Any speaker who has spoken on a motion may not speak a second time until all others are heard.
6. Microphones will be marked "pro" and "con". Movants shall speak from the pro microphone, opponents from the con microphone.
7. Prior to a motion being before the body or debated, the Chair shall 1. State the name of the motion; 2. State the name of the movant and the movant's position; 3. State the name of the second and the second's position; and 4. Read the motion.
8. Debate shall be limited to two minutes per speaker. No member may speak in debate more than two times on the same day to the same question.

9. No member may speak a second time on the same question if another who has not spoken requests the floor.
10. A timekeeper shall signal when allotted time has expired. At that time, the speaker must cease speaking.
11. Comments should be addressed to the Chair. Other speakers should be referred to by title or more formal address rather than first name, such as “the prior speaker from New York”.

**Purpose:**

To insure an efficient, productive, and orderly meeting of the National Council.

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**Change Notice:**



# Federal Bar Association

## National Council Meeting Agenda

Saturday, March 24, 2018

2:15 pm EST

The Ritz-Carlton Pentagon City

Arlington, VA

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| 1. Call to Order  | 2:15 pm  | Kip Bollin   |
| 2. Consent Agenda (Tab A) <ul style="list-style-type: none"><li>• Approval of the Minutes (Sept. 16, 2017)</li><li>• ABA Delegate Report</li><li>• Federal Bar Building Corporation Report</li></ul>  | 2:20 pm  | Kip Bollin   |
| 3. Report from the President (Tab B) <ul style="list-style-type: none"><li>• Midyear Update</li><li>• Actions of the Board of Directors</li><li>• Nominations and Elections Committee Report</li></ul>  | 2:30 pm  | Kip Bollin   |
| 4. Report from the Treasurer (Tab C) <ul style="list-style-type: none"><li>• Year-end Financials as of Sept. 30, 2017 (unaudited)</li><li>• Financial Update as of Jan. 31, 2018</li></ul>  | 2:45 pm  | Christian Adams  |
| 5. Reports <ul style="list-style-type: none"><li>• Report from the President of the Foundation (Tab D)</li><li>• Report from the Executive Director</li><li>• Report from the President-Elect</li><li>• Report from the Chair of the Government (Tab E) Relations Committee</li><li>• Report from the Chair of the Constitution, Bylaws (Tab F) Rules and Resolutions Committee</li><li>• Report from the Chair of the Membership Committee</li></ul> | 3:00 pm<br>3:10 pm<br>3:20 pm<br>3:30 pm<br>3:40 pm<br>4:00 pm | Jeanette Bazis<br>Stacy King<br>Maria Vathis<br>West Allen<br>Anh Kremer<br>Jonathan Hafen |
| 6. Unfinished Business (Tab G) <ul style="list-style-type: none"><li>• Request by David Ferarri to reconsider Policy 2-6: Section and Division Administrative Fee</li></ul>   | 4:15 pm  | Kip Bollin   |
| 7. New Business <ul style="list-style-type: none"><li>• 2018 Convention—New York</li></ul>  | 4:30 pm  | Kip Bollin   |
| 8. Adjournment  | 4:45 pm  | Kip Bollin   |

# TAB A

## Consent Agenda



# Federal Bar Association

## National Council Meeting Minutes

Saturday, September 16, 2017

8:00 a.m. ET

Westin Peachtree Plaza

Atlanta, GA

### CALL TO ORDER

President Newman called the meeting to order at 8:06 am ET with a quorum present. The agenda was adopted as distributed prior to the meeting.

### APPROVAL OF THE CONSENT AGENDA

A motion was made to approve the consent agenda for the September 16, 2017 meeting. The motion was properly seconded and passed unanimously.

### REPORT OF THE PRESIDENT

President Newman reported on the actions of the Board of Directors since the last meeting of the National Council:

#### *May 17, 2017 Electronic Vote*

- Ratified the presidential appointment of Karleen Green to the Board of Directors to fill a director vacancy (current or former Section or Division Chair) for the remainder of the term that expires on September 30, 2018.

#### *June 23, 2017 Meeting*

- Approved minutes from the March 16-17, 2017 meeting
- Approved the creation of the Special Committee on Diversity
- Approved the creation of the Access to Justice Task Force
- Approved the amended Policy 9-3: Terms of Office for Section and Division Chairs (now Officers)
- Approved the FY2018 Budget
- Approved the Securities Law Section's request to fund the Irv Pollack Prize at Georgetown University in the amount of \$25,000
- Accepted the Government Relations Committee's recommendation for Issues Agenda nominations
- Accepted the recommendation of the Constitution, Bylaws, Rules, and Resolutions Committee to add language to the Constitution that establishes a Clerk of Court Associate membership category.
- Approved the creation of a zero-dollar active member and associate member dues category for Clerks of Court.
- Approved the creation of the Task Force on Nominations and Elections

#### *July 10, 2017 Electronic Vote*

- Approved the request of the Oklahoma City Chapter to elect the Clerk of Court for the Western District of Oklahoma for Honorary Membership

#### *September 14, 2017 Meeting*

- Approved minutes from the June 23, 2017 meeting

- Ratified the approval of an electronic vote of \$10,000 donation to the Foundation’s Hurricanes Disaster Fund
- Approved the amended Policy 1-11: General Counsel
- Referred comments received during the formal comment period regarding Policy 9-3: Terms of Office for Section and Division Officers to the Section and Division Council for review and a recommendation if the policy needs further revision; recommendation shall be submitted to the board by December 1, 2017
- Postponed the consideration of the International Law Section’s Bylaws until after the Section and Division Council submits a recommendation on Policy 9-3
- Approved the Vermont Chapter’s Bylaws
- Approved the Central Louisiana Chapter’s Bylaws
- Approved the National Convention Committee’s recommendation of the South Florida Chapter as host chapter for the 2021 FBA Annual Meeting and Convention.

*Report from the Nominations and Elections Committee*

President Newman gave the report of Nominations and Elections Committee. The following individuals were elected to terms beginning Oct. 1, 2017:

**Officers**

President-Elect..... Maria Z. Vathis  
 Treasurer..... Christian K. Adams

**Directors**

Group 1..... Andrew K. Clark  
 Group 2..... Kelly Titus Scalise  
 Group 3..... Joseph S. Leventhal  
 Group 4..... Hon. Alison S. Bachus

**Vice Presidents for the Circuits**

1st Circuit..... Oreste R. Ramos  
 2nd Circuit..... Olivera Medenica  
 3rd Circuit..... Hon. Karoline Mehalchick  
 4th Circuit..... Kacy L. Hunt  
 5th Circuit..... Marc W. Taubenfeld  
 6th Circuit.....Katharine M. Gardner  
 7th Circuit..... Kevin G. Desharnais  
 8th Circuit..... Daniel C. Hedlund  
 9th Circuit..... Darrel Gardner  
 10th Circuit..... Christopher M. Stephens  
 11th Circuit..... Brett A. Barfield  
 D.C. Circuit..... Steven R. Miller

*Final Remarks and President’s Awards*

Judge Newman reported on the success of the Civics Initiative. Over 10,000 students had the chance to meet with federal judges because of the program. Judge Newman also noted the success of the SOLACE program and thanked Steve Justice for his efforts in running the program. Judge Newman also reported that the new Veterans initiatives and the Wills for Veterans program will occur in early FY18 and expressed his desire for Veterans programs to continue to grow throughout the next year.



Judge Newman presented President's Awards to Rob Clark and Joan Brady for their outstanding dedication and service to the Federal Bar Association. Judge Newman recognized Steve Justice, Matt Moschella, West Allen and Maria Vathis for their service with a presidential recognition award. Judge Newman also recognized Stacy King for her effort and dedication as Executive Director of the FBA. Kip Bollin presented Judge Newman with a recognition award for his service to the FBA.

#### **REPORT OF THE TREASURER**

Maria Vathis reported that the association's finances remain healthy. Ms. Vathis noted that the association's assets as of July 2017 remain relatively equivalent to last year, except for increases in cash and cash equivalents and investments, due to association revenue and favorable investment performance. The total assets of the FBA are valued at \$3.3 million. Total net assets are up \$447,000 when compared to July 2016. Investments represent 74% of assets, cash and cash equivalents represent 17%, other assets are 5% and net property and equipment is 4%. As of July 2017, total liabilities are down \$226,000 when compared to July 2016. FBA assets as of July 2017 represent seven months of operating expenses. Total revenue is at 82% of the budget. Overall activity spending is at 78% of the budget.

#### **REPORT FROM THE EXECUTIVE DIRECTOR**

Stacy King reported that membership continues to rise. The FBA now has 99 Chapters with 2 being added this year. Ms. King also noted that 11 Sections and Divisions saw a 5% increase in membership. Ms. King stressed the success of this year's civics program, the wills for veterans initiative, and mentorship program among other initiatives. Ms. King then recapped the past year's events, noting we had the largest leadership training to date, and all other conferences were as successful as past years in terms of attendance and revenue. Ms. King then announced the YLD Emerging Professionals Program taking place in Las Vegas in February 2018. Ms. King concluded by thanking Kevin Maxim, the Atlanta Chapter, and the city of Atlanta for their hurricane relief efforts and their hospitality during the 2017 Annual Meeting and Convention.

#### **REPORT FROM THE PRESIDENT-ELECT**

Kip Bollin reported that he will be focusing on rolling out the mentorship program nationwide in the coming year. Matching lawyers with law students will be a major component of the program. Mr. Bollin encouraged everyone in attendance to participate in the program as a mentor. Mr. Bollin also noted he will be working on the emerging professionals program in the coming months. Mr. Bollin encouraged people to attend in February and tell others about the program.

#### **REPORT FROM THE GOVERNMENT RELATIONS COMMITTEE**

West Allen recognized members of the Government Relations Committee for their hard work throughout the FY17 term. Mr. Allen reported on the success of Capitol Hill Day, with more than 200 meetings with House and Senate leaders taking place this year. Mr. Allen encouraged everyone to participate in the GRC at a local level as well as a national level. Mr. Allen informed everyone that the new 2018 Issues Agenda is now available online. The GRC's most recent actions include approving the 2018 GRC Issues Agenda, endorsing Bankruptcy Judgeship Act, opposing the efforts to divide the 9<sup>th</sup> Circuit Court of Appeals, and opposing budget cuts aimed at compensation for federal attorneys.

#### **REPORT FROM THE CONSTITUTION, BYLAWS, RULES AND RESOLUTIONS COMMITTEE**

Kevin Maxim overviewed the amendment process for new attendees. He then introduced the two constitutional amendments to be voted on by the National Council.

Simeon Baum made a motion to approve the proposed amendment to Article V, Section 1(e): Vice President of the Circuits:

Article V, § 1(e): Vice Presidents for the Circuits

e. Two Vice Presidents for the Circuit for each Federal ~~judicial circuit~~ court of appeals (other than the Court of Appeals for the Federal Circuit), who shall be elected for staggered terms of two years by the members within that Circuit. Because the Court of Appeals for the Federal Circuit is unique among the courts of appeals in that it has nationwide jurisdiction in a variety of subject areas, and because there are no Chapters specifically associated with the court, the Court of Appeals for the Federal Circuit shall not have a Circuit Vice President. No Vice President for the Circuit shall serve more than three full terms.

The motion was properly seconded by Hon. Alison Bachus and passed by a two-thirds of those voting.

Mr. Maxim introduced an amendment to Article IV Section 3:

Article IV, § 3: Associates

C. Clerk of Court Associate. Any individual who holds the position of “Clerk of Court” or “Circuit Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

John McCarthy moved to strike the word “Circuit” from the proposed amendment, to read:

**CHANGE TO Article IV, § 3: Associates**

**C. Clerk of Court Associate. Any individual who holds the position of “Clerk of Court” or “~~Circuit~~ Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.**

The motion was properly seconded and was passed by a majority.

Robert Mueller introduced an amendment to delete the words “or his or her designee” from the same Article. Warren Burke moved to vote on Mr. Mueller’s amendment to strike “or his or her designee” from the text. The motion was seconded by David Ferrari. Discussion on the amendment followed. The motion did not pass.

Simeon Baum proposed a motion to add “Deputy Clerk or Divisional Clerk” after “Clerk of Court” to the Article:

CHANGE TO Article IV, § 3: Associates

C. Clerk of Court Associate. Any individual who holds the position of “Clerk of Court,” “Deputy Clerk,” or “Divisional Clerk” or “~~Circuit~~ Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of

record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

Betty Stevens seconded the motion. Discussion on the amendment followed. The motion passed by a majority.

Mr. Mueller then moved to delete “Any individual who holds the position” and add “The” in front of “Clerk of Court”.

CHANGE TO Article IV, § 3: Associates

C. Clerk of Court Associate. ~~Any individual who holds the position of The~~ “Clerk of Court,” or “Deputy Clerk,” “Divisional Clerk,” or “~~Circuit~~ Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

Adrienne Berry seconded the motion. Discussion on the amendment followed. The motion passed by majority.

Mr. Baum moved to have the following amended Article of the FBA Constitution sent to the FBA membership for approval:

Article IV, § 3: Associates

C. Clerk of Court Associate The “Clerk of Court,” “Deputy Clerk,” “Divisional Clerk,” or “Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record or his or her designee who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

Bonnie Greenberg seconded the motion. The motion passed.

Sharon O’Grady moved to create a zero-dollar active member and associate member dues category for Clerks of Court. The zero-dollar dues category for active and associate Clerks of Court members was approved by the Board of Directors at its June 23, 2017 meeting. Simeon Baum seconded the motion. Discussion on the motion followed. Mark Vincent then put forth a motion to strike “active member” from the dues category. David Ferrari second the motion. The motion to amend the dues category did not pass. The vote on the main motion was called, and it passed by a majority.

#### **REPORT FROM THE FOUNDATION OF THE FBA**

Sharon O’Grady reported that the foundation has awarded more than \$170,000 in grants this year. This figure included a diversity grant that was added this year. Ms. O’Grady also noted the Hurricanes Disaster Fund was also created to provide aide to communities affected by the storms. Ms. O’Grady encouraged attendees to continue donating to the Hurricane Disaster Fund.

Judge Newman then presided over the election of one director to the Foundation's Board was the candidate slated and. The council unanimously approved the election of Col. Winston Haythe to serve a second term on the Foundation's Board of Directors.

**REPORT FROM THE FEDERAL BAR BUILDING CORPORATION**

Robert Mueller reported that the Federal Bar Building Corporation manages over \$10 million in assets for the FBA and has done well in FY17. Mr. Mueller acknowledged the current board and the members of the board who are stepping down. Judge Newman then presided over the election of two directors to the FBBC Board. The council unanimously approved the election of Alan Harnish and Matt Moreland.

**REPORT FROM THE MEMBERSHIP COMMITTEE**

Jonathan Hafen reported that the association has reached an all-time high of 19,024 members with a substantial increase in professional members. Mr. Hafen noted law student growth will be a major focus of the upcoming year. Mr. Hafen recognized chapters, sections and divisions with at least 3% membership growth over the past year. Mr. Hafen then recognized chapters, sections and divisions with 5% growth, and those with over 10% growth.

Mr. Hafen then introduced the new membership tagline – “The FBA - For a Career for a Lifetime,” and described new membership initiatives for the next three years, focused on targeting law students and continuing FBA membership for law students becoming young lawyers. Mr. Hafen also reinforced the importance having a specific membership plan at all levels of the FBA.

Mr. Hafen then listed the recipients of the FBA Milestone Pins:

**25-Year Members**

Fern C. Bomchill  
Jeffrey T. Cox  
Robert J. DeSousa  
Bonnie S. Greenberg  
Hon. Michael J. Newman  
Vildan A. Teske

**30-Year Members**

Adrienne A. Berry  
Kent S. Hofmeister  
Leslie R. Horowitz  
Stephen R. Jackson  
Henry M. Quillian III  
James S. Richardson  
Marc W. Taubenfeld

**35-Year Members**

Aaron H. Bulloff  
Alan E. Goldsmith  
Winston M. Haythe  
Joyce E. Kitchens  
Steven R. Miller  
Robert C. Mueller  
Hon. Delissa A. Ridgway

**40-Year Members**

James T. Bland Jr.  
Brian C. Murphy

**45-Year Members**

David P. Freedman

**50-Year Members**

Henry Eagles  
Paul E. Freehling

**UNFINISHED BUSINESS**

Mr. Ferrari introduced a motion to reconsider the Administrative Fee Policy for Sections and Divisions. The motion could not be voted on at the current meeting due to improper notice. Mr. Ferrari noted that he hopes it can be discussed at the Sections/Divisions Meeting and noted that this gives all parties a chance to develop written positions in advance of the 2018 midyear meeting.

**NEW BUSINESS**

Members of the 2018 New York Convention planning committee encouraged everyone to make their plans to attend the convention by signing Sinatra's *New York, New York*.

**Recognition Awards**

Judge Bachus announced certificate awards for circuit vice presidents and awarded the outstanding CVP Leader Award to Mike Vitale. Brett Barfield recognized Judge Bachus for her role as Chair of the Circuit Vice Presidents. Judge Newman presented gifts to the FY17 committee chairs.

**National Officers Swearing In**

Judge Newman invited the newly elected national officers and circuit vice presidents to come forward for the leadership oath. All incoming national officers were sworn in by Judge Newman.

**PRESIDENT'S FINAL REMARKS AND ADJOURNMENT**

President Newman acknowledged the staff and leaders. The meeting was adjourned at 12:10 pm EDT.



## Federal Bar Association

*ABA House of Delegates Annual Meeting  
February 5, 2018  
Vancouver*

### **FBA Delegate Report** (3/5/18)

To FBA Board of Directors and National Council:

On February 5, 2018, the ABA House of Delegates met at the ABA Mid-Year Meeting in Vancouver. There were approximately 35 proposed Resolutions considered and several resolutions were robustly debated.

These proposed resolutions were shared with the FBA leadership, the GRC and the Sections and Divisions leadership seeking comments. The Intellectual Property Section leadership recommended the FBA support of two IP-related resolutions (101A and 101B). The Civil Rights Section leadership recommended the FBA support of two Civil Rights-related resolutions (116A and 117). The IP-related resolution 101A was approved as revised, the IP-Related resolution 101B, and the two Civil Rights-related resolutions 116A and 117 were approved.

For more detailed information regarding the actions taken by the ABA House of Delegates on all Resolutions, see the attached Daily Journal.

Respectfully submitted by:

Ashley L. Belleau  
*Federal Bar Association ABA Delegate*

Attachment: ABA House of Delegates Daily Journal

AMERICAN BAR ASSOCIATION  
HOUSE OF DELEGATES

2018 MIDYEAR MEETING  
VANCOUVER, BRITISH COLUMBIA  
FEBRUARY 5, 2018

DAILY JOURNAL

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
10A	NEW YORK STATE BAR ASSOCIATION	Encourages law firms to develop initiatives to provide women lawyers with opportunities to gain trial and courtroom experience.	Approved
100	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting amendments dated February 2018 to Standard 106 (Separate Locations and Branch Campuses) of the <i>ABA Standards and Rules of Procedure for Approval of Law Schools</i> .	Approved
101A	SECTION OF INTELLECTUAL PROPERTY LAW SECTION OF LITIGATION	Urges federal courts, Congress and the U.S. Patent and Trademark Office (USPTO) to adopt rules or enact legislation to establish an evidentiary privilege applicable only to clients of patent agents who are registered with the USPTO.	Approved as Revised*
101B	SECTION OF INTELLECTUAL PROPERTY LAW	Supports efforts in Congress and federal courts to allow the filing of a copyright infringement action once a proper application for registration of a copyright has been delivered to the Copyright Office.	Approved

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\* See Attached.

102	STANDING COMMITTEE ON PARALEGALS	Grants approval to two programs, grants reapproval to thirteen programs, withdraws the approval of five programs at the request of the institutions, and extends the term of approval to several paralegal education programs.	Approved
103A	STANDING COMMITTEE ON SPECIALIZATION	Grants accreditation to the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a five-year term as a designated specialty certification program for lawyers.	Approved
103B	STANDING COMMITTEE ON SPECIALIZATION	Grants reaccreditation to the Elder Law program of the National Elder Law Foundation of Tucson, Arizona for a five-year term and extends accreditation to the Medical Malpractice and Legal Malpractice programs of the American Board of Professional Liability Attorneys until August 2018.	Approved
104	COMMISSION ON LAW AND AGING COMMISSION ON DISABILITY RIGHTS	Urges Congress and the Social Security Administration (SSA) to strengthen the safeguards and protections for all individuals receiving benefits via the representative payee program.	Approved
105	ABA WORKING GROUP TO ADVANCE WELL- BEING IN THE LEGAL PROFESSION COMMISSION ON LAWYER ASSISTANCE PROGRAMS STANDING COMMITTEE ON PROFESSIONALISM NATIONAL ORGANIZATION OF BAR COUNSEL	Urges stakeholders, where appropriate, to consider the recommendations set out in the report, <i>The Path to Lawyer Well-Being: Practical Recommendations for Positive Change</i> , by the National Task Force on Lawyer Well-Being.	Approved



106	COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE	Urges Congress and the President to re-authorize, raise the appropriation level of, and fully fund the Legal Assistance for Victims Grant Program of the Violence Against Women Act, 34 U.S. Code § 20121.	Approved
107	YOUNG LAWYERS DIVISION	Urges federal courts to adopt pro bono panels for civil litigants guided by a uniform set of guidelines.	Withdrawn
108A	CRIMINAL JUSTICE SECTION COMMISSION ON DISABILITY RIGHTS	Urges legislative bodies and governmental agencies to enact laws and adopt policies regarding the use of solitary confinement for detainees.	Approved
108B	CRIMINAL JUSTICE SECTION	Urges legislatures to enact legislation creating a substantive right and procedures for individuals to challenge their convictions by demonstrating that forensic evidence or testimony used to obtain their conviction has subsequently been undermined or discredited.	Approved as Revised*
108C	CRIMINAL JUSTICE SECTION MASSACHUSETTS BAR ASSOCIATION	Urges the Department of Justice to restore prosecutorial discretion in choosing the charges s/he wishes to pursue and reserve mandatory minimum sentencing to only the most serious drug traffickers and prohibit its use to secure plea agreements.	Approved as Revised*
108D	CRIMINAL JUSTICE SECTION COMMISSION ON DISABILITY RIGHTS NATIONAL LGBT BAR ASSOCIATION	Urges courts to extend <i>Batson v. Kentucky</i> , 476 U.S. 79 (1986), to prohibit discrimination against jurors on the basis of sexual orientation or gender identity/expression.	Approved

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\* See Attached.

108E	CRIMINAL JUSTICE SECTION	Urges Congress to enact legislation protecting Deferred Action for Childhood Arrivals (DACA) recipients and other undocumented immigrants who were brought to the United States as children and who meet age, residency, educational and other qualifications as set forth by the U.S. Citizenship and Immigration Service ("DREAMers").	Approved as Revised*
109	STANDING COMMITTEE ON THE LAW LIBRARY OF CONGRESS SECTION OF INTERNATIONAL LAW SECTION OF DISPUTE RESOLUTION SECTION OF INTELLECTUAL PROPERTY LAW SECTION OF ENVIRONMENT, ENERGY, AND RESOURCES LAW PRACTICE DIVISION LAW STUDENT DIVISION SENIOR LAWYERS DIVISION INFRASTRUCTURE AND REGULATED INDUSTRIES SECTION	Urges Congress to approve appropriations necessary to enable the Library of Congress to adequately staff, maintain, modernize, and enhance its services, collections, facilities, digital projects and outreach efforts.	Approved
110	SECTION OF INTERNATIONAL LAW SECTION OF INTELLECTUAL PROPERTY LAW SECTION OF SCIENCE & TECHNOLOGY LAW	Adopts the <i>Model Provisions on Electronic Commerce for International Trade Agreements</i> , dated February 2018, and recommends the Model Provisions as a template for international trade agreements.	Approved

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\* See Attached.

111	DEATH PENALTY DUE PROCESS REVIEW PROJECT SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE	Without taking a position supporting or opposing the death penalty, urges each death penalty jurisdiction not to execute or sentence to death anyone who was 21 years old or younger at the time of the offense.	Approved
112A	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Revised Uniform Unclaimed Property Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Postponed Indefinitely by vote of 229;154
112B	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Directed Trust Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
112C	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
112D	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Parentage Act (2017), promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved

112E	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Protected Series Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
112F	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Regulation of Virtual-Currency Businesses Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
113	COMMISSION ON HOMELESSNESS AND POVERTY COMMISSION ON YOUTH AT RISK	Supports the development of integrated, systemic approaches within administrative, civil and criminal court contexts to address the special needs of youth and young adults experiencing homelessness.	Approved
114	STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS NATIONAL LEGAL AID AND DEFENDER ASSOCIATION	Urges governments to provide legal counsel as a matter of right at public expense to low-income persons in all proceedings that may result in a loss of physical liberty, regardless of whether the proceedings are: a) criminal or civil; or b) initiated or prosecuted by a government entity.	Approved
115A	SECTION OF FAMILY LAW	Urges governments to adopt or preserve tax code provisions that allow alimony deduction for payors and treats alimony as taxable income to payees.	Withdrawn
115B	SECTION OF FAMILY LAW	Adopts the <i>ABA Model Act Governing Assisted Reproductive Technology</i> dated February 2018 to replace the Model Act that was adopted in 2008, and urges adoption by appropriate governmental agencies.	Withdrawn

115C	SECTION OF FAMILY LAW STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL	Urges Congress to repeal Section 641 of the National Defense Authorization Act for Fiscal Year 2017, as codified at 10 U.S.C. § 1408 (a)(4).	Approved
116A	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Supports an interpretation of Title VII of the Civil Rights Act of 1964 that defines sex discrimination by covered employers to include discrimination on the basis of sexual orientation and gender identity.	Approved
116B	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE	Urges Congress to enact legislation overruling <i>Middlesex County Sewerage Auth. v. Nat'l Sea Clammers Ass'n</i> , 453 U.S. 1 (1981) and supports legislation enabling plaintiffs to bring constitutional claims in lieu of a statutory cause of action based upon environmental harm due to governmental acts or omissions.	Approved
117	COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges courts to recognize that service in the United States Armed Forces should not be restricted and that individuals should not be discriminated against on the basis of sexual orientation or gender identity.	Withdrawn
300	AIDS COORDINATING COUNCIL SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION CENTER FOR HUMAN RIGHTS COMMISSION ON DISABILITY RIGHTS	Urges governments and relevant private entities to recognize that transmission of the human immunodeficiency virus (HIV), which causes Acquired Immune Deficiency Syndrome (AIDS), is driven by certain "social determinants of health" that law can address, including, among others, poverty, stigma, discrimination, and racism; housing, food, and transportation insecurity; over-criminalization of HIV non-disclosure; and misinformation about HIV transmission risk.	Approved

- |     |  |   |                            |
|-----|--|---|----------------------------|
| 301 | COMMISSION ON<br>HOMELESSNESS AND<br>POVERTY<br>SECTION OF LITIGATION  | Endorses General Comment No. 21 on Children in Street Situations which was issued in June 2017 by the United Nations Committee on the Rights of the Child, and urging U.S. and international governments, the legal community, and the private sector to utilize General Comment No. 21 to develop comprehensive, long-term strategies to realize the rights of children living in street situations. | Approved                   |
| 302 | COMMISSION ON<br>WOMEN IN THE<br>PROFESSION<br>SECTION OF LITIGATION<br>SECTION OF CIVIL<br>RIGHTS AND SOCIAL<br>JUSTICE | Urges all employers and specifically all employers in the legal profession to adopt and enforce policies and procedures prohibiting harassment and retaliation based on gender, gender identity, and sexual orientation.  | Approved<br>as<br>Amended* |

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\* See Attached.

# REVISED 101A

## RESOLUTION

1 RESOLVED, That the American Bar Association urges ~~federal, state, territorial and tribal courts~~  
2 ~~and legislative bodies~~ federal courts, Congress, and the United States Patent and Trademark  
3 Office (USPTO) to adopt rules or enact legislation to establish an evidentiary privilege by courts  
4 in civil actions and USPTO proceedings for confidential communications between a client and a  
5 patent agent licensed by the USPTO reasonably necessary and incidental to ~~ertain~~ the limited  
6 activities authorized by the Patent Act, 35 U.S.C. § 2(b)(2)(D), and U.S. Patent & Trademark  
7 Office regulations, 37 C.F.R. § 11.5(b)(1), and urges state courts and legislative bodies to adopt  
8 rules and decisions or enact legislation consistent therewith.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

# REVISED 108B

## RESOLUTION

1 RESOLVED, That the American Bar Association urges federal, state, local, territorial,  
2 and tribal legislatures to enact legislation creating a substantive right and procedures for  
3 individuals to challenge their convictions by demonstrating that forensic evidence or  
4 testimony used to obtain their convictions has been undermined or discredited by reliable  
5 scientific research or technological advances.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED



# REVISED 108C

## RESOLUTION

1 RESOLVED, That the American Bar Association urges the United States Department of  
2 Justice to reconsider the guidelines contained in its May 10, 2017 Memorandum  
3 regarding charging and sentencing policies and to utilize the *ABA Standards on the*  
4 *Prosecution Function (2015)* in revising the guidelines;

5  
6 FURTHER RESOLVED, That all prosecuting authorities should adopt and pursue  
7 charging policies that are consistent with the *ABA Standards on the Prosecution Function*  
8 *(2015)*; assess each case individually to determine whether, under the totality of the  
9 circumstances -- including a defendant's leadership role in the offense, use or threat of  
10 violence, significant criminal history, ties to large-scale criminal organizations or serious  
11 victim injury -- charging the most serious, readily provable offense is likely to achieve  
12 justice in the individual case; and prohibit filing of charges and recidivist  
13 enhancements simply to exert leverage to induce a guilty plea.

14 ~~FURTHER RESOLVED, That all prosecuting authorities should adopt and pursue~~  
15 ~~charging policies that are consistent with the *ABA Standards on the Prosecution Function*~~  
16 ~~*(2015)*; assess each case individually to determine whether, under the totality of the~~  
17 ~~circumstances, charging the most serious, readily provable offense is likely to achieve~~  
18 ~~justice in the individual case; prohibit filing of charges and recidivist enhancements~~  
19 ~~simply to exert leverage to induce a guilty plea, and prohibit seeking mandatory~~  
20 ~~minimum sentences unless required by law or justified by such factors as: a defendant's~~  
21 ~~leadership role in the offense, use or threat of violence, significant criminal history, ties~~  
22 ~~to large-scale criminal organizations or serious victim injury.~~

**DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED**

RESOLUTION

- 1 RESOLVED, ~~That the American Bar Association urges the Executive Branch to reseed its~~  
2 ~~decision to end the Deferred Action for Childhood Arrivals (DACA) program; and~~  
3
- 4 FURTHER RESOLVED, That the American Bar Association urges Congress to enact legislation  
5 permitting Deferred Action for Childhood Arrivals (DACA) recipients and other undocumented  
6 immigrants who entered the United States as children and who meet age, residency, educational  
7 and other qualifications (“DREAMers”) who meet certain educational, work, or military  
8 requirements, successfully pass a background check, and remain in good legal standing, to apply  
9 for permanent legal status and citizenship; and  
10
- 11 FURTHER RESOLVED, That in the absence of Congressional legislation, the American Bar  
12 Association urges the Department of Homeland Security to exercise its discretion consistent with  
13 the legal authority conferred upon it and refrain from apprehending, detaining, or removing  
14 DREAMers, ~~and that any exclusion based on criminal conduct be limited to specified~~  
15 ~~convictions.~~

**DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED**

# SCHICKMAN AMENDMENT TO 302

## RESOLUTION

- 1 RESOLVED, That the American Bar Association urges all employers, and specifically all  
2 employers in the legal profession, to adopt and enforce policies and procedures that prohibit,  
3 prevent, and promptly redress harassment and retaliation based on sex, gender, gender identity,  
4 sexual orientation, and the intersectionality of sex with race and/or ethnicity. Such policies and  
5 procedures should include:  
6
- 7 1. dissemination to all employees, management and directors of a clear statement that  
8 harassment, including harassment based on sex, gender, gender identity, sexual orientation, and  
9 the intersectionality of sex with race and/or ethnicity will not be tolerated;  
10
  - 11 2. confirmation that the policy applies to conduct by directors, officers, management at all  
12 levels, supervisors, employees, and third parties, at or in connection with any work related  
13 function or against anyone protected by this policy irrespective of where that conduct occurs;  
14
  - 15 3. provision of alternative methods for reporting violations of the policy, including methods  
16 which do not involve any accused party, including and at least one ~~confidential~~ anonymous  
17 reporting method (such as a hotline);  
18
  - 19 4. communication upon commencement of employment of the process for reporting to a  
20 governmental agency if the complainant desires independent review;  
21
  - 22 5. investigation of all complaints in a prompt, competent, fair, thorough and objective  
23 manner, with a report to complainant at closure of the process;  
24
  - 25 6. prohibition of retaliation against the complainant and/or witnesses;  
26
  - 27 7. implementation of corrective remedial actions as appropriate, ~~including, but not limited~~  
28 ~~to,~~ and disciplinary actions including, but not limited to termination, to prevent and correct  
29 unlawful harassment or retaliation in the workplace, enforce the policy against harassment and  
30 retaliation;  
31
  - 32 8. communication regarding the existence, resolution, and any consideration paid for the  
33 settlement of claims to the highest levels of the entity, such as reporting to the Board of Directors  
34 or Executive Committee;  
35
  - 36 9. development of initiatives that foster effective training and other innovative programs to  
37 address the problem of sexual harassment.  
38

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED



## Federal Bar Building Corporation

TO: FBA National Council

FROM: Bob Mueller, FBBC President

**SUBJECT: FBBC Report Concerning Evolution of the FBBC and Current Investment Funds**

DATE: February 20, 2018

On March 26, 2010, the Board of Directors of the Federal Bar Building Corporation (FBBC) unanimously adopted a resolution reflecting that the then-approximately \$4 Million (\$4,000,000) investment portfolio of the FBBC, together with growth, dividends, interest, and other income, be maintained by the FBBC as an operational reserve, to be used for the sole purposes of anticipated operating expenses, capital improvements, and necessary repairs. At a subsequent meeting of the Board, then-President Alan Harnisch appointed Judge Delissa Ridgway, Gerald Gilbert, and Robert Mueller (chairman) to comprise this special committee to study and make recommendations to the Board regarding various questions directly or indirectly relating to this reserve.

### **Historical Context**

The FBBC was incorporated in the District of Columbia in December 1958 and was organized under provisions of Section 501(c)(2) of the Internal Revenue Code. Its stated purpose was to purchase or build and maintain office headquarters for the FBA and the Foundation of the FBA.

The first such home for the FBA was in an office building at 1815 H Street, N.W., in Washington, D.C. That building, and the neighboring building at 1819 H Street, were built with monies generated by fund-raising efforts, donations, events, etc., by past-President Earl W. Kintner. Those buildings, owned by the FBBC, were built without any funds from the FBA.

When these buildings began to seriously deteriorate and began to experience vacancies, the FBBC determined to sell them and locate other appropriate offices for the FBA and the Foundation. The buildings were sold in 1997, and the FBBC purchased a building at 2215 M Street, NW, as the future home of the FBA and the Foundation. The purchase was made with funds realized from the H Street sale, with no mortgage. The remainder of monies realized from the H Street sale was invested by the FBBC with the intent and for the purpose of paying all operating expenses and reasonable repairs and maintenance from the growth and income of the investment corpus. There was no plan to charge the FBA any rent for its use of the building, nor was any rent in fact charged initially. Neither was any thought given to initiating rent for the Foundation.

In the 1998-2002 timeframe, three unforeseen things changed this financial blueprint. First, soon after moving to the new building, the FBBC had to replace the roof at a total cost of \$58,000. In 2001 a drain on the roof of the building malfunctioned and caused substantial damage to our

building and a restaurant next door. The cost of re-routing the water, and repairing damage to the FBA headquarters and restaurant was approximately \$85,000. Additionally, during this same timeframe, it became clear that substantial expenses loomed on the near horizon for several necessary and relatively major capital repairs (e.g., replacement windows). The amount of these realized and anticipated expenses was substantial and not foreseen in the FBBC's financial planning for this early time period. Second, we unexpectedly lost the 4<sup>th</sup> floor tenant in the building, from whom we had received and reasonably expected to continue to receive approximately \$100,000 per year. This put an enormous squeeze on the investment portfolio. Third, the investment market took a significant downturn, with the result that the investment portfolio on which the FBBC relied for income, discussed above, suffered major losses and was no longer sufficient to generate the necessary income to cover expenses.

As a temporary measure to help delay the breaking point of this crisis, the FBBC took the step of initiating a rent requirement from the FBA. The plan was to begin by charging rent in the amount of \$36,000 per year and to increase it each year to a level of \$120,000 per year. In fact, in early 2007, when the rent was at \$60,000 per year as of October 2006, the FBBC had decided to sell the building and to relocate the FBA headquarters; therefore, the rent level was retained at \$60,000 per year, where it still exists today. No rent was ever charged of the Foundation, largely because of the relatively small physical space used by the Foundation.

The decision to sell the M Street building fortuitously was made at a point when the commercial real estate selling market in DC still was relatively strong. A sale was consummated in January 2007, and the FBA headquarters and staff moved to temporary office space in Crystal City, Virginia. New office condominium space was located at 1220 N. Fillmore Street, Arlington, VA, to become the new FBA headquarters. The contract for this space, executed in the spring of 2008, was a lease with option to purchase after two years, which the FBBC planned from the outset to exercise.

Upon the sale of the M Street building and the relocation to Arlington, the financial plan of the FBBC was clearly established: Invest \$5,000,000 in short term funds that would be adequate to finance the lease/planned-purchase of the space, and invest the remaining \$4,100,000 from the M Street sale in a long-term portfolio that would produce income sufficient to pay for operating expenses and reasonable capital maintenance and improvements. Just short of the schedule in January of 2010, the FBBC exercised its option to purchase this space, and the short-term investments and a small part of the long-term portfolio were liquidated, leaving the balance of the long-term investments to produce income for operating expenses.

The general world-wide economic downturn that started in 2007 presented a realistic threat to this financial plan. Fortunately, the skill and advice of our investment counselors and the fortuitously low level of expenses required at the time permitted the FBBC to weather that storm. The result is that, at the present time, with the global economy having markedly improved and with the forecast encouraging, the long-term investment portfolio has returned a level that currently significantly exceeds the value prior to the onset of the severe recession.

It is in this historical context that the FBBC considered various questions relating to establishing and maintaining a portfolio sufficient to cover anticipated operating expenses, real estate taxes, repairs and upkeep in the future, and to provide reserve funds sufficient to cover unforeseen property expenses and economic challenges. It is impossible to overstate the determination of the current Board of Directors to learn from the M Street experience and to take

all steps necessary to avoid similar threatening factors in the future. The headquarters office space is the principal physical asset of the FBA and the Foundation, and there can be no doubt that the FBBC's primary mission, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation of the FBA. All other policies and decisions made by the FBBC must be in the context of that primary mission.

### **Special Committee's Investment Recommendations**

The FBBC special committee met initially by teleconference on Monday, January 17, 2011. Additionally, the committee had the benefit of comments and suggestions on an interim draft report in a meeting of the Board of Directors in February 2011, and on several occasions thereafter. Bearing in mind the historical context set forth above, the committee submitted the following investment recommendations.

- On an assumption of maintaining an investment portfolio that will produce an average annual income of 5-6%, the FBBC should achieve and maintain a portfolio balance of \$6 Million (\$6,000,000).
  - The committee concludes that a portfolio investment balance of \$4 Million (\$4,000,000) on average should be sufficient to produce income adequate to cover all operational expenses and relatively minor repairs (hereinafter “operational reserve”), as well as county real estate taxes, without need to invade this corpus for that purpose. All reasonable efforts should be made to avoid any invasion of this corpus.
  - The committee concludes that an additional portfolio investment of \$2 Million (\$2,000,000) on average should be a sufficient reserve (hereinafter “capital improvement reserve”) for the following nonexclusive purposes:
    - Periodic scheduled or predictable capital improvements and replacements;
    - Unforeseen expenses such as unscheduled repairs;
    - An economic downturn that results in a reduction of the \$4 Million (\$4,000,000) corpus to the point where it is insufficient to produce adequate income to cover operational expenses.
  - [At that point in time, the FBBC's investment portfolio was approximately \$1,675,000 less than the target of \$6 Million (\$6,000,000). I am pleased to report that, as of January 31, 2018, the value of the portfolio of investments is \$5,865,251 – approximately \$134,759 less than the target!]
- Any activity that causes the total portfolio balance to fall below \$6 Million (\$6,000,000) will trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total portfolio balance. Such steps might include postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent. Until such time as the total portfolio is restored to \$6 Million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total portfolio.
- At the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total portfolio that exceeds \$6 Million (\$6,000,000) shall be distributed to the Federal Bar Association and/or the Foundation of the Federal Bar Association, as provided in the tax code for a Section 501(c)(2) corporation. All revenues in excess of total operating

expenses and reserves for future expenses must be distributed to the owners, per relevant provisions of the U.S. tax code and IRS regulations.

### **Related Recommendations of the Special Committee**

- The FBBC should continue the business practice of charging rent from the FBA.
  - This practice, originally started on M Street out of economic necessity, has established a disciplined and healthy business-like aspect to the relationship between the FBBC and FBA that should be continued.
  - The rent will assist the growing of the portfolio discussed above.
  - When the FBBC reaches the point where the total portfolio exceeds \$6 Million (\$6,000,000), the excess must be distributed to the FBA and/or the Foundation as described above, so there will not be a situation in which the FBBC is charging the FBA rent without an economic need. In pursuing this practice, the business relationship discussed above continues to be encouraged.
  - For the present and into the near future, the current rent of \$60,000 should continue, which coincidentally is nearly sufficient to cover all current condominium fees. It may be adjusted from time to time as circumstances may warrant.
- The FBBC should not presently initiate a rental charge to the Foundation, given its minimal space requirements in the headquarters facility.
- These investment and related recommendations should be reflected in and adopted by the FBBC Board of Directors by Resolution, so that any future Board may fully understand the current Board's decision, motivation, and rationale if and when a future Board considers adjusting any policy reflected in the resolution; and so that future FBA and Foundation Boards may be clear in the concept that this approach is deemed to be critical to the future interest of all three organizations.

### **Resulting Resolution of the FBBC Board of Directors**

On September 9, 2011, having received and considered the report of the Special Committee, as well as the historical context described above, the Board of Directors of the FBBC unanimously adopted the resolution that is attached to this Report to the National Council. That resolution fully adopted the recommendations of the Special Committee, and it has not been amended since that date. The monies invested by the FBBC from the sales of earlier properties is there for the sound discretionary use by the FBBC to maintain the headquarters of the FBA and the Foundation, and the Board of the FBBC is singularly focused on fulfilling that fiduciary responsibility that is so critical to the future success of the FBA and the Foundation.

Respectfully submitted,

/s/

Robert C. Mueller  
President  
Federal Bar Building Corporation



# **Federal Bar Building Corporation**

## **BOARD OF DIRECTORS**

### **Policy Resolution Regarding FBBC Investments and Reserves**

**Approved on September 9, 2011**

WHEREAS, the Board of Directors of the Federal Bar Building Corporation (FBBC), on March 26, 2010, unanimously passed a resolution reflecting that the then-approximately \$4 Million (\$4,000,000) investment portfolio of the FBBC - together with growth, dividends, interest and other income - shall be maintained by the FBBC as an operational reserve, to be used for the sole purposes of paying usual operation expenses, capital improvements and replacements, and expenses for necessary repairs at the condominium office of the Federal Bar Association (FBA) and the Foundation of the Federal Bar (Foundation) at 1220 N. Fillmore Street, Arlington, VA;

WHEREAS, by report of February 25, 2011, a special committee of the FBBC Board submitted a draft report including certain recommendations regarding the appropriate value of the FBBC investment portfolio that should be achieved and maintained in order to generate sufficient income to fully cover operating expenses and real estate taxes, as well as to constitute a sufficient reserve for such non-exclusive purposes as scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and possible economic downturns that may result in a reduction of the corpus of the portfolio to the point where the portfolio it is not sufficient to produce adequate income to cover operational expenses;

WHEREAS the full FBBC Board has offered comments and suggestions in response to the draft report and recommendations, which the special committee of the Board has considered and incorporated in the final report and recommendations, as appropriate, as approved in principle on March 15, 2011, and with final text approved on September 9, 2011;

WHEREAS, this report reflects that the recommendations of the special committee are based in part on the historical experiences of the FBBC and its financial and investment policies while owning properties serving as headquarters facilities for the FBA and the Foundation at 1815 and 1819 H Street, NW, Washington, DC, at 2215 M Street, NW, Washington, DC, and at 1220 N. Fillmore Street, Suite 444, Arlington, VA;

WHEREAS, it is the principal purpose of the FBBC to own and maintain real estate to serve as the headquarters of the FBA and the Foundation;

WHEREAS, the condominium office space at 1220 N. Fillmore Street, Arlington, VA, is owned and maintained by the FBBC for this purpose and is the principal physical asset of the FBA and the Foundation; and

WHEREAS, in this context, the Board of Directors of the FBBC considers that the FBBC's primary responsibility and trust, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation and



that all other policies and decisions made by the FBBC must be in the context of that primary mission;

IT IS, THEREFORE, RESOLVED: That, on an assumption of maintaining an investment portfolio that will produce annual income of 5-6%, the FBBC shall achieve and maintain a total portfolio balance of approximately \$6 Million (\$6,000,000);

IT IS, THEREFORE, FURTHER RESOLVED: That, of this portfolio balance, approximately \$4 Million (\$4,000,000) (“operational reserve”) will be sufficient to produce income adequate to cover all operational expenses, real estate taxes, and relatively minor repairs, without need to invade the corpus of the operational reserve for these purposes, and that all reasonable efforts shall be made to avoid any invasion of this operational reserve;

IT IS, THEREFORE, FURTHER RESOLVED: That the remainder of the portfolio balance - \$2 Million (\$2,000,000) (“capital improvement reserve”) - on average will be a sufficient reserve for such non-exclusive purposes as periodic scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and economic downturns that may result in a reduction of the \$4 Million (\$4,000,000) operational reserve to the point where it is insufficient to produce adequate income to cover operational expenses;

IT IS, THEREFORE, FURTHER RESOLVED: That any activity that causes the total portfolio balance (“total reserve”), which is the combined balance of the operational reserve and the capital improvement reserve, to fall below \$6 Million (\$6,000,000) shall trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total reserve balance, such as postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent;

IT IS, THEREFORE, FURTHER RESOLVED: That, until such time as the total reserve balance is restored to \$6 Million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total reserve balance;

IT IS, THEREFORE, FURTHER RESOLVED: That, the FBBC shall continue the sound business practice of charging the FBA rent for its use of the condominium office space owned by the FBBC, but that the Foundation shall not be charged rent for its use of such space at this time.

AND IT IS FINALLY RESOLVED: That it shall be the general policy of the FBBC that, at the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total reserve that exceeds \$6 Million (\$6,000,000) shall be distributed to the FBA and the Foundation as provided in the tax code and IRS regulations for a Section 501(c)(2) corporation.

# TAB B

Report from the President



# Federal Bar Association

## ACTIONS OF THE BOARD OF DIRECTORS FY2018

### September 14, 2017 Meeting

- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer to execute agreements, give direction, and receive information to/from SunTrust Bank regarding the investment and custody accounts of the Federal Bar Association
- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer to act, give instructions, access information, use Bank's services, perform transactions, enter into agreements, and delegate authority on behalf the operational account of the Federal Bar Association at SunTrust Bank
- Approved FY2018 committee appointments

### November 11, 2017 Meeting

- Adopted the American Civil Trial Bar Roundtable's Resolution on the Importance of Fair and Impartial Courts
- Approved the IP Section's dues increase request from \$10 to \$15
- Approved the Securities Law Section's request to donate \$25,000 of section funds to the SEC Historical Society

### November 27, 2017 Meeting

- Approved the 2017-2018 base salary in the amount set forth in Stacy King's employment agreement paragraph 4.3.2 and to award Executive Director Stacy King the full amount of the "potential bonus" as allowed by her employment contract in the current year, as set forth in paragraph 4.3.1

### February 1, 2018 Meeting

- Approved the appointment of Glen McMurry as Vice President for the Sixth Circuit to replace Tom McNeil
- Approved the appointment of Patty Paul of the Southern District of Georgia and Ashley Akers, Chair of the Law Student Division, to the Nominations and Elections Committee to replace two members who had resigned
- Approved Policy 1-14: Immediate Past President
- Approved the 2018 Budget Reforecast
- Approved revisions to Policy 2-3: Reimbursements (per diem increased to \$175)
- Approved the creation of and appointment of members to the Centennial Celebration Committee
- Approved revisions to Policy 9-3: Terms of Office for Section and Division Officers

- Approved proposed amendments to the Constitution and Bylaws to include a new associate membership category for Faculty Advisors and the creation of Law Student Chapters.
- Approved Policy 9-8: Law School Student Chapters



*Pursuant to the FBA Constitution and Bylaws, and in accordance with the notice disseminated earlier this year, the Nominations & Elections Committee has met and considered applications for nomination to FBA national office. The committee has nominated the following members for the offices indicated.*

<b>Candidates</b>	<b>Position</b>
Christian K. Adams	President-Elect
W. West Allen	Treasurer
Hon. Karoline Mehalchick	Director (Group 1-Vice Presidents for the Circuits)
John R. Thomas, Jr.	Director (Group 2-Chairs for the Sections and Divisions)
Kevin A. Maxim	Director (Group 3-Chapter Presidents)
Jessica R. Toplin	Director (Group 4-Younger Lawyers)
Scott P. Lopez	Vice President for the First Circuit
Ernest T. Bartol	Vice President for the Second Circuit
Frank J. McGovern	Vice President for the Third Circuit
Hannah Rogers Metcalfe	Vice President for the Fourth Circuit
Barry W. Ashe	Vice President for the Fifth Circuit
Glen R. McMurry	Vice President for the Sixth Circuit
Melissa N. Schoenbein	Vice President for the Seventh Circuit
Adine S. Momoh	Vice President for the Eighth Circuit
Laura Conover	Vice President for the Ninth Circuit
Daniel W. Lewis	Vice President for the Tenth Circuit
Michael S. Vitale	Vice President for the Eleventh Circuit
Elizabeth Pugh	Vice President for the D.C. Circuit

The names of these candidates will be listed on the Notice of Election that will be distributed to each member in good standing as of June 15, 2018.

## Petitions

Members who have not been nominated for office by the Committee, but who wish to be placed on the ballot for national office, may do so by delivering to Kip T. Bollin, Chair of the Nominations and Elections Committee, at [elections@fedbar.org](mailto:elections@fedbar.org), a **petition**, including an **Application**, specifying the office being sought and bearing the required number of signatures, i.e., fifty (50) signatures for national offices; twenty (20) signatures for vice presidents for the circuits by members within the respective circuit. No member shall be eligible as an endorser of a petition whose dues are not paid for the current fiscal year or who is not otherwise in good standing. Each petition may propose nominees for one or more offices; however, in no event shall any member be eligible as an endorser of more than one candidate for the same office. Petitions must be received by 5 p.m. EDT on **Wednesday, April 25, 2018**.

## Notice of Election, Ballots and Voting

In accordance with Bylaw 6(D), by **June 15, 2018**, the Committee shall cause a Notice of Election to be sent to each member of the Association in good standing. The notice shall list the names of all nominated candidates and candidates by petition in alphabetical order under each elective office. The notice also shall contain such instructions as necessary for members to cast their votes as prescribed by policy adopted by the Board of Directors. A suspended member who is restored to good standing after the transmittal of the notice and who, prior to the election's close, delivers to the Committee evidence of good standing, shall thereupon be entitled to vote. In an uncontested election, the Association shall only send the Notice of Election electronically to members.

The ballot shall contain the names of all nominated candidates and candidates by petition for each elective office as well as space for a write-in candidate for each elective office. Completed ballots shall be received by the Chair of the Committee or by such person as designed by the Chair no later than June 30. The Committee shall review and certify the tabulated votes and report as elected the candidate for each office who has received a plurality of the votes cast for that office by July 1.

Kip T. Bollin, President

*2018 Nominations and Elections Committee Chair*

# TAB C

Report from the Treasurer

**Federal Bar Association**  
**Statement of Financial Position**  
**September 2017 and 2016**

	2017	2016
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 921,731	\$ 696,514
Short-term Investments	536,487	452,340
Long-term Investments	1,954,735	1,787,850
Accounts Receivable	70,089	146,401
Inventory	14,631	14,081
Prepaid expenses	80,128	121,212
Due from related entities		
<b>Total Current Assets</b>	<b>3,577,801</b>	<b>3,218,398</b>
<b>Other Assets</b>		
Furniture and fixtures	186,201	186,201
Computer equipment and software	570,370	565,896
<b>Total Property and Equipment before Acc Depr</b>	<b>756,571</b>	<b>752,097</b>
Accumulated depreciation	(638,227)	(576,091)
<b>Net Property and Equipment</b>	<b>118,344</b>	<b>176,006</b>
<b>Total Assets</b>	<b>\$ 3,696,145</b>	<b>\$ 3,394,404</b>
<b>Liabilities</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 458,205	\$ 543,076
Accrued annual leave	35,384	35,032
Equipment Lease Liability	47,717	-
Deferred membership dues	97,943	115,025
Deferred convention	9,188	18,235
Due to related entities	23,712	8,867
Other	43,031	26,759
<b>Total Current Liabilities</b>	<b>715,180</b>	<b>746,994</b>
<b>Net Assets</b>		
<b>Board-designated net assets</b>		
Sections/divisions	886,650	887,360
Operational reserve	350,000	350,000
Furniture and new fixtures reserve	63,466	63,466
Chapter assistance	36,204	36,204
Future activity reserve	20,000	20,000
<b>Total Board-designated net assets</b>	<b>1,356,320</b>	<b>1,357,030</b>
General Operating	1,624,647	1,290,377
<b>Total Net Assets</b>	<b>2,980,967</b>	<b>2,647,407</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 3,696,145</b>	<b>\$ 3,394,404</b>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.



**Federal Bar Association**  
**Statement of Activities**  
**For the Twelve Months Ended September 30, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Support and Revenue:</b>				
(1) National dues	\$ 2,125,637	\$ 1,980,404	\$ 2,156,405	99%
(2) Sustaining dues	758,044	728,728	768,000	99%
(3) Section/division dues	212,854	206,792	205,000	104%
(4) Conferences	1,089,819	1,138,355	1,199,000	91%
(5) Co-sponsored conferences	50,000	50,000	50,000	100%
(6) Sections/divisions activities	86,077	74,625	80,000	108%
(7) Administrative and other revenues (Schedule I)	406,593	370,916	355,000	115%
In-Kind Contribution Revenues	390,075	390,075	390,075	100%
<b>Total support and revenue</b>	<b>5,119,099</b>	<b>4,939,895</b>	<b>5,203,480</b>	98%
Expenses:				
(8) Activity expenses (Schedule II)	2,729,346	2,478,967	2,693,750	101%
(9) General and overhead expenses (Schedule III)	2,168,460	2,176,504	2,451,575	88%
<b>Total expenses</b>	<b>4,897,806</b>	<b>4,655,471</b>	<b>5,145,325</b>	95%
Change in net assets before other Income (Expense)	221,293	284,424		
<b>Other Income (Expense)</b>				
Unrealized Gain/(Loss) on Investments	90,541	136,538		
Realized Gain/ (Loss) on Investments	21,726	( 23,519 )		
<b>Total Other Income (Expense)</b>	112,267	113,019		
Change in Net Assets	333,560	397,443		
Net Assets, beginning of year	2,647,407	2,249,964		
Current Net Assets	\$ 2,980,967	\$ 2,647,407		

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association**  
**SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES**  
**Schedule I**  
**For the Twelve Months Ended September 30, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Schedule of Revenues</b>				
(7.02) Administrative Fees (FFBA)	\$ 28,500	\$ 27,250	\$ 28,500	100%
(7.03) Administrative Fees (Sections&Divisions)	85,936	55,188	86,000	100%
(7.04) Interest/Dividend Income	48,196	52,779	-	
(7.05) FBA Need an Attorney	17,075	19,500	20,500	83%
(7.06) The Federal Lawyer & Publications	19,644	30,424	32,000	61%
(7.07) Royalty Income	6,764	4,108	4,000	169%
(7.09) Job Board	5,110	1,901	2,000	256%
(7.10) Webinars	177,428	162,808	170,000	104%
(7.11) List Sales	1,214	3,878	4,000	30%
(7.12) Miscellaneous Income	16,727	13,080	8,000	209%
<b>Total Administrative and Other Revenues</b>	<b>\$ 406,593</b>	<b>\$ 370,916</b>	<b>\$ 355,000</b>	<b>115%</b>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association**  
**SCHEDULE OF ACTIVITY EXPENSES**  
**Schedule II**  
**For the Twelve Months Ended September 30, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
<b>Schedule of Activity Expenses</b>				
<b>Activity Expenses</b>				
(8.01) President & BOD	\$ 156,111	\$ 123,427	\$ 162,500	96%
(8.02) National Council	10,671	4,100	8,000	133%
(8.03) Circuit Vice Presidents	28,708	38,994	50,000	57%
(8.04) NC Appointees	6,470	6,875	10,000	65%
(8.05) Past Presidents	9,188	7,362	10,000	92%
(8.06) Gov. Committees & Board	1,097	30	500	219%
(8.07) National Elections	13,240	11,748	12,000	110%
(8.08) Government Relations	76,028	72,707	80,000	95%
(8.09) Chapter Delegate	37,824	30,594	45,000	84%
(8.10) Chapter Leadership Training	81,897	72,407	80,000	102%
(8.11) Chapter Activity Fund	11,550	16,475	20,000	58%
(8.12) Chapter Rebates	518,135	491,589	541,000	96%
(8.13) Chapter Services	8,359	15,004	16,000	52%
(8.14) Membership Services	96,860	72,987	80,000	121%
(8.15) Membership Programs	16,941	11,714	24,000	71%
(8.16) The Federal Lawyer & Publications	289,784	268,164	275,000	105%
(8.17) FBA Conferences	906,280	881,383	870,000	104%
(8.18) Membership Marketing	17,692	11,421	20,000	88%
(8.19) Meetings Marketing	14,256	19,781	22,000	65%
(8.20) Webinar CLE Fees	14,734	16,467	20,000	74%
<b>Subtotal Activity Expenses</b>	<b>2,315,825</b>	<b>2,173,229</b>	<b>2,346,000</b>	99%
(8.21) Section and Divisions	360,744	268,748	285,000	127%
(8.22) FBA Funded Divisions	48,139	33,158	52,750	91%
(8.23) Section Council	4,339	3,832	5,000	87%
(8.24) Section Activity Fund	300		5,000	6%
<b>Subtotal Section &amp; Division Activity Expense</b>	<b>413,522</b>	<b>305,738</b>	<b>347,750</b>	119%
<b>Total Activity Expenses</b>	<b>\$ 2,729,346</b>	<b>\$ 2,478,967</b>	<b>\$ 2,693,750</b>	101%

**Federal Bar Association**  
**SCHEDULE OF ADMINISTRATIVE EXPENSES**  
**Schedule III**  
**For the Twelve Months Ended September 30, 2017**

	FY 2017 YTD	FY 2016 YTD	FY 2017 Budget	Percent of Budget
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**Schedule of Administrative Expenses**

**Administrative Expenses**

(9.01) Salaries	\$ 954,953	\$ 1,033,411	\$ 1,125,000	85%
(9.02) Payroll taxes	80,391	79,435	90,000	89%
(9.03) Employee Insurance	91,581	76,834	95,000	96%
(9.04) Employee Retirement	40,695	43,061	52,000	78%
(9.05) Employee Training	6,115	6,300	10,000	61%
(9.06) Management Travel	3,608	3,921	6,000	60%
(9.07) Outsourced Services	176,781	156,794	195,000	91%
(9.08) Dues and subscriptions	5,004	4,063	5,000	100%
(9.09) Leased Equipment	19,544	16,982	16,000	122%
(9.10) Repairs and maintenance	878	910	2,000	44%
(9.11) Rent	450,075	450,075	450,075	100%
(9.12) Insurance	18,439	17,877	20,000	92%
(9.13) Personal property taxes	4,396	3,762	5,000	88%
(9.14) Professional fees	16,169	15,270	15,500	104%
(9.15) Supplies	4,578	7,468	13,500	34%
(9.16) Computer/Internet Services	138,574	73,653	160,000	87%
(9.17) Telephone	24,916	24,727	26,000	96%
(9.18) Postage	-	6,090	8,500	0%
(9.19) Depreciation-Furniture & Fixtures	5,982	5,982	6,000	100%
(9.20) Depreciation-Computer Equipment	56,155	83,794	75,000	75%
(9.21) Other Office Expense	57,764	55,202	60,000	96%
(9.22) Miscellaneous Expense	11,864	10,893	16,000	74%

**Total Administrative Expenses**

	<b>\$ 2,168,460</b>	<b>\$ 2,176,504</b>	<b>\$ 2,451,575</b>	88%
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**Federal Bar Association**  
**Statement of Financial Position**  
**January 2018 and 2017**

	2018	2017
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash equivalents	\$ 648,172	\$ 766,321
Short-term Investments	534,652	466,678
Long-term Investments	2,067,621	1,789,024
Accounts Receivable	68,362	68,687
Inventory	14,631	14,081
Prepaid expenses	67,627	103,173
Due from related entities		
<b>Total Current Assets</b>	<b>3,401,065</b>	<b>3,207,964</b>
<b>Other Assets</b>		
Furniture and fixtures	186,201	186,201
Computer equipment and software	570,562	568,224
<b>Total Property and Equipment before Acc Depr</b>	<b>756,763</b>	<b>754,425</b>
Accumulated depreciation	(657,361)	(599,567)
<b>Net Property and Equipment</b>	<b>99,402</b>	<b>154,858</b>
<b>Total Assets</b>	<b>\$ 3,500,467</b>	<b>\$ 3,362,822</b>
<b>Liabilities</b>		
<b>Current Liabilities</b>		
Accounts payable	\$ 69,492	\$ 115,269
Accrued annual leave	31,548	26,294
Equipment Lease Liability	42,253	-
Deferred membership dues	106,349	122,371
Deferred convention	6,588	18,690
Due to related entities	1,975	12,298
Other	48,515	34,119
<b>Total Current Liabilities</b>	<b>306,720</b>	<b>329,041</b>
<b>Net Assets</b>		
<b>Board-designated net assets</b>		
Sections/divisions	813,721	887,718
Operational reserve	350,000	350,000
Furniture and new fixtures reserve	63,466	63,466
Chapter assistance	36,204	36,204
Future activity reserve	20,000	20,000
<b>Total Board-designated net assets</b>	<b>1,283,391</b>	<b>1,357,388</b>
General Operating	1,910,355	1,676,395
<b>Total Net Assets</b>	<b>3,193,746</b>	<b>3,033,783</b>
<b>Total Liabilities and Net Assets</b>	<b>\$ 3,500,467</b>	<b>\$ 3,362,822</b>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association  
Statement of Activities  
For the Four Months Ended January 31, 2018**

	FY 2018 YTD	FY 2017 YTD	FY 2018 Budget	Percent of Budget
<b>Support and Revenue:</b>				
(1) National dues	\$ 565,908	\$ 750,225	\$ 2,189,500	26%
(2) Sustaining dues	192,149	266,693	774,000	25%
(3) Section/division dues	57,440	73,700	210,000	27%
(4) Conferences	217,828	214,725	1,074,500	20%
(5) Co-sponsored conferences	-	-	50,000	0%
(6) Sections/divisions activities	30,373	30,664	90,000	34%
(7) Administrative and other revenues (Schedule I)	153,351	156,279	370,800	41%
In-Kind Contribution Revenues	130,025	130,025	390,075	33%
<b>Total support and revenue</b>	<b>1,347,074</b>	<b>1,622,311</b>	<b>5,148,875</b>	<b>26%</b>
Expenses:				
(8) Activity expenses (Schedule II)	505,326	541,920	2,820,300	18%
(9) General and overhead expenses (Schedule III)	721,807	695,469	2,390,575	30%
<b>Total expenses</b>	<b>1,227,133</b>	<b>1,237,389</b>	<b>5,210,875</b>	<b>24%</b>
Change in net assets before other Income (Expense)	119,941	384,922		
<b>Other Income (Expense)</b>				
Unrealized Gain/(Loss) on Investments	90,545	1,453		
Realized Gain/ (Loss) on Investments	2,114	-		
<b>Total Other Income (Expense)</b>	<b>92,659</b>	<b>1,453</b>		
Change in Net Assets	212,600	386,375		
Net Assets, beginning of year	2,981,146	2,647,408		
Current Net Assets	<b>\$ 3,193,746</b>	<b>\$ 3,033,783</b>		

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association**  
**SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES**  
**Schedule I**  
**For the Four Months Ended January 31, 2018**

	FY 2018 YTD	FY 2017 YTD	FY 2018 Budget	Percent of Budget
<b>Schedule of Revenues</b>				
(7.02) Administrative Fees (FFBA)	\$ 9,767	\$ 9,500	\$ 29,300	33%
(7.03) Administrative Fees (Sections&Divisions)	85,912	85,936	86,000	100%
(7.04) Interest/Dividend Income	21,761	17,100	-	
(7.05) FBA Need an Attorney	3,700	5,900	18,000	21%
(7.06) The Federal Lawyer & Publications	7,472	1,089	20,000	37%
(7.07) Royalty Income	1,193	3,691	5,500	22%
(7.09) Job Board	947	1,345	4,500	21%
(7.10) Webinars	20,479	30,044	175,000	12%
(7.11) List Sales	192	192	1,500	13%
(7.12) Miscellaneous Income	1,929	1,482	10,000	19%
<b>Total Administrative and Other Revenues</b>	<b>\$ 153,351</b>	<b>\$ 156,279</b>	<b>\$ 349,800</b>	<b>44%</b>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association**  
**SCHEDULE OF ACTIVITY EXPENSES**  
**Schedule II**  
**For the Four Months Ended January 31, 2018**

	FY 2018 YTD	FY 2017 YTD	FY 2018 Budget	Percent of Budget
<b>Schedule of Activity Expenses</b>				
<b>Activity Expenses</b>				
(8.01) President & BOD	\$ 5,741	\$ 15,071	\$ 180,000	3%
(8.02) National Council	-	-	8,000	0%
(8.03) Circuit Vice Presidents	1,102	277	45,500	2%
(8.04) NC Appointees	-	-	8,000	0%
(8.05) Past Presidents	-	-	9,000	0%
(8.06) Gov. Committees & Board	283	-	1,000	28%
(8.07) National Elections	2,989	-	12,000	25%
(8.08) Government Relations	34,707	23,378	106,000	33%
(8.09) Chapter Delegate	-	243	42,500	0%
(8.10) Chapter Leadership Training	-	-	91,000	0%
(8.11) Chapter Activity Fund	-	4,200	20,000	0%
(8.12) Chapter Rebates	118,199	121,081	533,500	22%
(8.13) Chapter Services	4,926	1,905	15,000	33%
(8.14) Membership Services	20,235	24,998	85,000	24%
(8.15) Membership Programs	6,063	3,616	18,000	34%
(8.16) The Federal Lawyer & Publications	48,243	79,827	292,000	17%
(8.17) FBA Conferences	77,802	83,709	934,800	8%
(8.18) Membership Marketing	1,140	9,195	24,000	5%
(8.19) Meetings Marketing	3,245	6,395	15,000	22%
(8.20) Webinar CLE Fees	3,743	4,408	15,000	25%
<b>Subtotal Activity Expenses</b>	<b>328,418</b>	<b>378,303</b>	<b>2,455,300</b>	<b>13%</b>
(8.21) Section and Divisions	175,377	159,299	300,000	58%
(8.22) FBA Funded Divisions	1,416	4,279	55,000	3%
(8.23) Section Council	115	39	5,000	2%
(8.24) Section Activity Fund	-	-	5,000	0%
<b>Subtotal Section &amp; Division Activity Expense</b>	<b>176,908</b>	<b>163,617</b>	<b>365,000</b>	<b>48%</b>
<b>Total Activity Expenses</b>	<b>\$ 505,326</b>	<b>\$ 541,920</b>	<b>\$ 2,820,300</b>	<b>18%</b>

These financial statements were prepared by Tate Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.



**Federal Bar Association**  
**SCHEDULE OF ADMINISTRATIVE EXPENSES**  
**Schedule III**  
**For the Four Months Ended January 31, 2018**

	FY 2018 YTD	FY 2017 YTD	FY 2018 Budget	Percent of Budget
<b>Schedule of Administrative Expenses</b>				
<b>Administrative Expenses</b>				
(9.01) Salaries	\$ 357,477	\$ 317,522	\$ 1,040,000	34%
(9.02) Payroll taxes	29,678	28,768	86,000	35%
(9.03) Employee Insurance	30,191	27,869	95,000	32%
(9.04) Employee Retirement	11,771	12,924	42,000	28%
(9.05) Employee Training	4,426	589	10,000	44%
(9.06) Management Travel	3,085	335	6,500	47%
(9.07) Outsourced Services	60,367	55,812	240,000	25%
(9.08) Dues and subscriptions	209	1,812	5,000	4%
(9.09) Leased Equipment	4,588	6,995	22,000	21%
(9.10) Repairs and maintenance	246	220	1,000	25%
(9.11) Rent	140,025	150,025	450,075	31%
(9.12) Insurance	5,011	6,196	16,500	30%
(9.13) Personal property taxes	1,579	648	4,500	35%
(9.14) Professional fees	6,200	6,450	16,500	38%
(9.15) Supplies	785	2,333	6,000	13%
(9.16) Computer/Internet Services	23,725	24,525	192,000	12%
(9.17) Telephone	6,003	7,843	25,000	24%
(9.18) Postage	-	-	3,500	0%
(9.19) Depreciation-Furniture & Fixtures	1,994	1,994	3,500	57%
(9.20) Depreciation-Computer Equipment	17,140	21,482	50,500	34%
(9.21) Other Office Expense	13,872	19,424	60,000	23%
(9.22) Miscellaneous Expense	3,435	1,703	15,000	23%
<b>Total Administrative Expenses</b>	<b>\$ 721,807</b>	<b>\$ 695,469</b>	<b>\$ 2,390,575</b>	<b>30%</b>

# TAB D

Report from the President of the Foundation



## **Foundation of the Federal Bar Association**

*Chartered by Act of Congress, August 24, 1954*

The Foundation Board of Directors approved the following grants for 2018:

### **Delaware Chapter– High School Fellowship Program**

The Delaware Chapter, along with the District Court of Delaware, implemented the High School Fellowship Program, a six-week summer program for high school students selected to work in chambers with Judges of the Court, in an effort to provide students with the opportunity to interact with prominent Delaware educators despite economic and/or cultural obstacles. The Program promotes legal research and education in Delaware and we hope the students who participate take the "insiders" knowledge that they gain and share it with their classmates and communities, and use it to pursue careers in the field of law, bettering the federal bar.

### **Eastern District of Michigan Chapter - Law Day 2018**

This grant helps promote legal education in the Detroit metropolitan community by affording students who would otherwise be unable, the opportunity to participate in Law Day. Previously, attendance was limited due to financial constraints. Social Studies Consultants to the Wayne and Oakland County high schools encouraged our FBA Chapter to underwrite the cost of transportation as a way of increasing participation in this valuable program. We would very much like to accommodate a higher percentage of the schools requesting to participate.

### **Minnesota Chapter – Court Camp**

A newly-formed committee of the Minnesota Chapter of the Federal Bar Association will design and implement a court camp program during the summer of 2018. Court camp is an education initiative for high school students focused on creating early opportunities for those students to learn about careers in the law. The committee hopes to enhance a diverse "pipeline" of candidates for the future of the legal profession.

### **San Joaquin Valley Chapter – Law Day Yosemite**

Law Day Yosemite 2018 educates junior high students about the importance of the Rule of Law in this country. Over 400 8th graders from surrounding rural schools come to Yosemite to celebrate Law Day. This year's speaker is Laurie Levenson, a law professor from Loyola and head of the Project for the Innocent. She will speak to the 8th graders about "Equal Justice Under Law," a topic the students will have studied in their classes and also about which they will have written an essay. The students will be served lunch and participate in the Q&A with Professor Levenson.

## **Diversity Grants:**

The Foundation Board of Directors approved the following grants for 2018:

### **Middle District of Florida - Pathway to the Bankruptcy Bench: Building a Pipeline**

The program's overarching objective is to create diversity on the bench of the Bankruptcy Courts. The Courts of Appeals and District Courts- though by no means as diverse as we would like - are much farther along than the bankruptcy bench in reflecting the populations they serve. For example, out of the 373 or so bankruptcy judges in the nation, only 13 are African American. The immediate objective of the program is to create interest in the practice of bankruptcy law by diverse young lawyers and law students so as to attempt to create a "pipeline." You see, the main impediment to diversity in the bankruptcy bench is lack of diverse candidates.

### **Minnesota Chapter – 4 Part Hate Crime CLE Series**

This grant will be used to support a series of four CLEs in the District of Minnesota on the topic of hate crimes. By choosing four different locations and subtopics, we hope to inform a variety of audiences on this critical issue, including practicing lawyers, federal judges, law students, and members of the broader community. We also hope these events will promote awareness, participation and diversity in our local chapter and help recruit new members.

The next round of applications will be due June 15.

### **Robert A. McNew Law Student Scholarship**

The 2018 scholarship was awarded to Ms. Jasmine Stanzick, Loyola University Chicago School of Law. Jasmine is a second-year law student at Loyola. She externed last summer for Judge Sara L. Ellis, U. S. District Court for the Northern District of Illinois, researching and drafting judicial opinions for pre-trial motions including Title VI discrimination and misappropriation of trade secrets claims. She was also a student writer on the American Bar Association Student Lawyer Magazine during the summer of 2017.

Growing up in Rabat, Morocco, Jasmine supervised the Sister Club at the Rabat American High School, organizing a group of workshops with girls from impoverished Moroccan towns to instruct them how to use technology to learn English and educate them on their rights as women in Morocco. In 2014, she coordinated a youth leadership workshop with Lady Khama Charitable Trust in Gaborone, Botswana. Her long list of accomplishments in law school include serving as president of the Loyola Federal Bar Association and winning Best Brief at the Thomas Tang Moot Court National Competition, of which she was also a national champion. She also received the CALI award for the best grade in her legal writing course.

"The Federal Bar Association has been instrumental in helping me achieve my goals," Jasmine wrote in her personal essay. "In my short time as president of the Loyola FBA, I have been able to share and promote the incredible community I have become a part of. In the two events we have held this semester, student interest in the FBA has expanded as a result of the talented and experienced professionals that generously agree to share their time and knowledge, including Judge (Virginia M.) Kendall and Magistrate Judge (Young B.) Kim from the Northern District of Illinois. I have come to realize that the FBA is not just a group you join in law school, but one that remains with you for the remainder of your legal career and one that I am thrilled and honored to be a part of."

**Kintner Public Service Scholarship**

The \$5,000 Public Service Scholarship is awarded to one high school senior each spring. A notice and application was prepared and sent in late January to all public sector members and to the general counsels of government agencies. Notices will be included in several FBA e-news editions. At least one of the parents (or guardians) of the student must be a current federal government attorney or federal judge and member in good standing of the FBA. If a non-member joins the FBA prior to the application deadline of April 30, his or her child will be eligible for the scholarship.

**Annual Giving Tuesday Campaign**

Staff continued the annual Giving Tuesday campaign, which focused on reaching out to chapter and national leaders. An email blast was sent the Tuesday following Thanksgiving.

**Hurricanes Disaster Fund**

On September 1, 2017, the Foundation of the Federal Bar Association created the Hurricane Disaster Fund to support FBA Chapters, Sections, and Divisions and legal aid and other organizations in response to the immediate need in local communities for legal assistance in the aftermath of the devastating storms. The fund was expanded to cover storms which occurred later in the season.

The Hurricanes Disaster Fund will support FBA Chapters, Sections, Divisions, and Members - and local legal aid and other organizations working to provide legal services to impacted communities in the aftermath of Harvey, Irma, Jose, and Maria. A committee administered the fund and made sure applications met the eligibility and evaluation criteria.

The Foundation Board approved the distribution of funds to the following organizations:

- Lone Star Legal Aid
- Texas RioGrande Legal Aid
- Ayuda Legal Huracan Maria (in partnership with LatinoJustice)
- Louisiana Civil Justice Center
- Bay Area Legal Services (BALS)

**Moot Court Sponsorship**

The Foundation continues its sponsorship of the 24<sup>th</sup> Annual Thurgood Marshall Moot Court Competition for 2018.

# TAB E

Report from the Chair of the Government  
Relations Committee



# Federal Bar Association

TO: National Council  
Federal Bar Association

FROM: Government Relations Committee  
W. West Allen, Chair; and Bruce Moyer, Counsel

SUBJ: Update on Legislative and Public Policy Developments

DATE: February 20, 2018

## **GRC Activities and Events**

**Monitoring of Federal Rules Amendments.** The Government Relations Committee has begun to monitor and report on the work of the Judicial Conference of the United States' Standing Committee on Rules of Practice and Procedure. FBA member Ben Robinson is serving as the FBA's observer to the quarterly meetings of the Standing Committee and reporting back to the Government Relations Committee and the Federal Litigation Section. This initiative, now in its first stages, will represent a key way to keep Federal Bar members informed of potential and pending Federal rules changes.

**FBA/NCC Panel at FBA 2018 Mid-Year Meeting.** The GRC will host a program on "Judicial Nominations in the Trump Presidency" during the Mid-Year Meeting on Saturday morning, March 24. The program, jointly produced with the National Constitution Center (NCC), will feature two experts with competing views on the Trump Administration's record in reshaping the federal bench and its constitutional implications. The program will be recorded for subsequent broadcast on the NCC's "We the People" podcast series. Underwriting support for the program has been pledged by the Foundation of the Federal Bar Association.

**FBA Capitol Hill Day, April 26, 2018.** Registration is now open on the FBA website for Capitol Hill Day on Thursday, April 26. FBA leaders from across the country will meet with House and Senate offices to discuss FBA legislative issues that impact the administration of justice and the federal courts. FBA participants will discuss: adequate funding for the federal courts, filling judicial vacancies, additional judgeships and the establishment of an Article I immigration Court.

**2019 Issues Agenda.** All FBA leaders, members and operating components have been invited by the GRC to provide nominations to update the 2019 Issues Agenda. Further information is available on the FBA website. The deadline for nominations is Friday, March 30, 2018.

**Government Relations Liaisons.** Approximately twenty-five GR Liaisons participated in two conference calls with West Allen and Bruce Moyer on December 15 and 18 to review the duties of GR Liaisons and the benefits of their work. Chapter leaders Peggy Hunt (Utah Chapter and GRC Member), Oliver Ruiz (South Florida Chapter) and Bill Kirk (San Antonio Chapter) also participated on the call and provided helpful comments underscoring the role of GR Liaisons. Seventh-five chapters and sections have GR Liaisons and the number keeps growing.

**ABA Proposed Resolutions Under Consideration.** The GRC in mid-January sought comments from seven FBA sections and divisions on public policy positions embraced in nine proposed resolutions to be considered by the House of Delegates of the American Bar Association in early February. Ashley Belleau, FBA Delegate to the ABA House of Delegates, will rely upon the comments in her voting on the resolutions on behalf of the FBA during the House of Delegates meeting. The GRC identified the nine resolutions among a larger body of proposed resolutions the House of Delegates will consider that are within the FBA's wheelhouse of public policy concerns. Pursuant to FBA policy No. 1-12, the GRC referred the resolutions to the Sections and Divisions Council for their feedback to assist the GRC in its recommendation to Ashley in her voting. In other developments, the ABA in December underwent unprecedented Senate scrutiny for its assessment process in its rating of federal judicial nominees. The Trump Administration has not relied on the ABA ratings in its vetting of judicial candidates, relying instead on assistance from the Federalist Society in its identification and vetting of candidates.

### **Legislative and Policy Issues Monitored by the GRC**

**Article III Judicial Vacancies and Confirmations.** The GRC continues its monitoring of judicial vacancies and efforts to keep the federal bench as fully-staffed as possible. Significant numbers of Article III judicial vacancies continue to exist, with 147 vacancies in the district and circuit courts. Fifty-eight judicial nominations are pending in the Senate.

On January 23 and February 12, President Trump announced his tenth and eleventh waves of judicial nominees. The January 23 announcement of 12 nominees included one circuit nominee, eight district nominees and three nominees to non-Article III courts (the Court of Appeals for Veterans Claims, the Tax Court and the Court of Federal Claims). Five were for emergency vacancies in Texas and Louisiana. The February 12 announcement included four circuit nominees — including one for the Ninth Circuit, two for the Seventh Circuit and one for a Fifth Circuit vacancy — and five district nominees.

The confirmation on January 30 of Minnesota State Supreme Court Justice David Stras to the Eighth Circuit Court of Appeals represented the first time in 30 years that the Senate went ahead with a committee hearing and a vote on a judicial nominee despite the lack of return of the corresponding blue slip from one of his home-state senators.

President Trump's record on filling judicial circuit vacancies has far outdistanced his predecessors at this point in a presidency. His confirmation of twelve circuit nominees is



more than any president in his first year, and more than Presidents Obama and George W. Bush combined. Senate action on district court judicial nominations has fallen behind largely because of the priority attached to circuit nominees. Overall, Trump nominations to circuit court and district court vacancies in Republican-majority states continue to take precedence, while vacancies pile up in Democratic states like California, New York and New Jersey. The most recent February 12 announcement may signal a thaw in White House relationships with Senate Democrats, with three of the four circuit nominees coming from states represented by Democratic Senators (one from Hawaii and two from Illinois).

The results of the Trump Administration's efforts to restock the federal bench will be lasting. As David Lat in "Above the Law" recently noted, "Many of President Trump's initiatives might get stuck in Congress, struck down by courts, or undone by his successor — but his appointees to the federal bench, appointed for life, will be around for a long, long time (especially given the administration's focus on youth when selecting nominees)."

**FY 2018 Funding for the Federal Judiciary.** President Trump on February 9 signed into law a sweeping \$320 billion budget agreement, reached by Congress after months of negotiations, including two brief government shutdowns. The legislation continues stopgap funding for the federal courts and the rest of the federal government through March 23. Between now and March 23, House and Senate appropriators will work to craft the twelve fiscal 2018 spending bills for inclusion in a final "omnibus" measure. Funding for the federal judiciary, which is contained within the funding bill for financial and general government agencies, is likely to be approved at the \$7 billion annualized mark, a level slightly above 2017 spending levels.

On February 12, President Trump sent to Congress a \$4.4 trillion federal budget for fiscal 2019, calling for increased military and border spending and cuts to some domestic programs, with a projected increase of more than \$4 trillion in the federal deficit over the next decade. Congress is expected to elevate spending even higher in light of the two-year budget agreement reached a week earlier. The federal judiciary's budget request, included within the Trump budget, requests \$7.2 billion, reflecting a 3.2 percent increase above the assumed fiscal 2018 appropriation to support the Constitutional and statutory mission of the federal courts. According to the Administrative Office of the United States Courts, the request will maintain current services across the federal judiciary and sustain progress on several ongoing initiatives, including cybersecurity and space reduction. The request addresses staffing and workload needs in the courts and federal defender offices, improves security at federal court facilities, and funds several new initiatives needed to support judicial operations.

# TAB F

Report from the Chair of the Constitution,  
Bylaws Rules and Resolutions Committee



# Federal Bar Association

To: National Council

From: Constitution, Bylaws, Rules and Resolutions Committee

Anh Kremer (Chair)  
Stacy King (Executive Director)  
Tyler Brooks  
Paul Vamvas  
Sherri Carr

Kristin Kimmelman  
Thomas Segars  
Thomas Schuck  
Patrick O'Keefe  
Kevin Maxim

Re: Committee's Report & Recommendation Regarding Proposed Amendment to FBA Constitution and Bylaws Regarding Law Student Chapters and Faculty Advisor Associate Memberships

Date: February 20, 2018

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## I. Background

The Committee received a proposal from Glen McMurry on behalf of the Law School Student Chapter Working Group. The Working Group proposes an amendment to the Constitution and Bylaws to add a new category of associate membership in the Association designated for Law School Student Chapter Faculty Advisors and to allow each law school student chapter to collect additional dues at its discretion.

On February 1, 2018, the Committee submitted its report and recommendation to the Board of Directors to request the Board's approval of proposed amendments to the Constitution and Bylaws. The Board of Directors voted unanimously to recommend the approval of the proposed amendments and did not have revisions to the proposal. The following proposal is submitted to the National Council for approval or disapproval of amendments to the Constitution and Bylaws.

## II. Proposed Amendments and Committee's Recommendation

The Working Group proposes the amendments as set forth in the attached redline document. The Committee agreed with the amendments as proposed by the Working Group with the following modifications. Specifically:

Art. IV Membership, Sec. 3, New D. Faculty Advisor Associate: Committee approved striking the following language: "and who is not admitted to the practice of law before a Federal Court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia" in the description of faculty

advisor because the Committee felt that a faculty advisor should be eligible for the associate membership category regardless of whether he or she is an attorney.

New Art. XI Law Student Chapters, sec. 1: The Committee revised "Each law school student chapter shall designate a faculty advisor" to "Each law school student chapter shall designate one Faculty Advisor and shall advise the headquarters of the association." The language was revised to clarify requirements.

The Committee did not make any edits to the Working Group's Bylaws proposal.

After analysis, discussion, and a vote, the Committee recommends the amendments as modified by the Committee. The Committee believes that it will benefit the Association to make these changes to the Constitution and Bylaws.

The Committee also suggests and recommends that the Board approve a policy that sets forth the guidelines and standards, including appropriate use of funds, for student chapters and faculty advisors.

### **III. Summary of Arguments For and Against the Proposed Amendment**

The Working Group's proposal would expand the Association's associate membership ranks to beyond the three categories currently existing for Foreign Associates, Law Student Associates, and Clerk of Court Associates. *See* FBA Constitution at Art. IV, §§ 3(a), (b) and (c). Associate members may not vote and may not hold any elective office in the Association. *See* Section 3 of Article IV, "in no event may such associate vote or hold any elective office in the Association or in any Chapter, Section, or Division thereof."

The Working Group's proposal also seeks to formalize the role of the Law Student Chapters within the Association.

An argument in favor of the proposal is that the proposal allows the Association to strengthen and formalize the critical role of Law Student Associates and Law Student Chapters play in our Association. The Law Student Chapters provide a membership pipeline into our organization. Not only do a significant number of Law Student Associates become Active Members in the FBA after graduation, but Law Student Associates have the ability to actively promote the Association in the local communities through programming and events.

Importantly, the proposal provides a vehicle for the Association to increase its affiliation with area law schools. Most, if not all, law schools require that student groups have a designated faculty advisor. Many times the faculty advisor that the law school designates is a non-attorney (for example, the director of career development. By creating a Faculty Advisor Associate membership category, it allows faculty advisors who might otherwise not have an opportunity to associate with the FBA, to receive the FBA's weekly e-mails and other important national announcements about the Association. Absent at least associate membership status, faculty advisors who do not happen to be members of the bar have no status within the Association and would not be regularly included in in local and national FBA communications channels. The proposal would formally include those faculty advisors and ensure that they are better informed, and hopefully, more involved. Moreover, having a faculty advisor as an associate member of the organization, will help ensure continuity with Law Student Chapters. Law students are part of the Law Student Chapters only for the

duration of their schooling. Faculty advisors, on the other hand, particularly those who are more plugged into the organization, will stay in the role for a longer period of time.

An argument against the proposal is that it establishes a precedent for expanded associate membership in the FBA for non-attorneys, when the association is of course a *bar* association.

However, the Association has previously allowed for non-lawyer, honorary members to be vested with the full rights and privileges of membership:

**Section 2. Honorary Membership.** Honorary members of the Association, as hereinafter provided, shall be exempt from payment of dues but shall have full rights and privileges of membership:

...

b. Any person who has rendered conspicuous service to the United States Government or to this Association may be elected to an honorary membership by vote of three-fourth's of the members of the Board of Directors then present;

*See FBA Constitution at Article IV.* The proposed Associate membership category, while being extended to certain non-lawyers, would not carry with that membership the full rights and privileges of membership, and therefore appears to pose less of a risk of a non-lawyer slippery slope than other, pre-existing provisions in the Constitution.

#### **IV. Committee Recommendation**

As set forth above, the Committee recommends the amendments as modified by the Committee. The Committee believes that it will benefit the Association to make these changes to the Constitution and Bylaws.

The Committee respectfully recommends that the National Council approve of submitting this proposed constitutional amendment to an FBA member vote.

## The Constitution of the Federal Bar Association

Article I	Name and Location
Article II	Seal, Insignia, and Logos
Article III	Mission Statement, Vision, and General Objectives
Article IV	Membership
Article V	Officers, Directors and Delegates: Nomination, Removal, & Duties
Article VI	Board of Directors
Article VII	National Council
Article VIII	Divisions
Article IX	Sections
Article X	Chapters
Article XI	Annual Meeting of the Association
Article XII	Dues
Article XIII	Authority Regarding Bylaws
Article XIV	Amendment to the Constitution

### Article I - Name and Location

**Section 1. *Name.*** The name of this organization is "The Federal Bar Association" (hereinafter, "Association"). The Association is chartered under the laws of the District of Columbia and was established on January 5, 1920. The name may not be copied, used, or issued by anyone for any purpose except as authorized by the Board of Directors.

**Section 2. *Location.*** The headquarters of the Association shall be at a site to be determined by the Board of Directors. Chapters of the Association shall be located in such cities of states, commonwealths, territories, possessions, and foreign countries as are approved by the Board of Directors under this Constitution.

### Article II - Seal, Insignia, and Logos

**Section 1. *Design.*** The official seal and insignia of the Association comprise a representation of the Goddess of Justice standing before the United States Supreme Court Building, all within two concentric circles. Within the outer circle appear the words, "The Federal Bar Association, January 5, 1920." The Board of Directors may adopt such logos for the Association as it shall deem appropriate.

**Section 2. *Use By the Association.*** As authorized by the Board of Directors, the insignia and logos may be used by the Association on jewelry, stationery, displays, publications, and the like.

**Section 3. *Use by Others.*** The insignia and logos may not be copied, used, or issued by anyone other than the Association for any purpose except as authorized by the Board of Directors.

### Article III - Mission Statement, Vision, and General Objectives

**Section 1. *Mission Statement.*** The mission of the Association is to strengthen the federal legal system and administration of justice by serving the interests and the needs of the Federal practitioner, both public and private, the federal judiciary and the public they serve.

**Section 2. *Vision Statement.*** The Association will be recognized as the premier bar association serving the Federal practitioner and judiciary.

**Section 3. *General Objectives.*** The general objectives of the Association are as follows (not listed in order of priority; each objective is equally important in accomplishing the mission of the Association):

- a. To serve as the national representative of the Federal legal profession;
- b. To promote the sound administration of justice and the integrity, quality and independence of the Federal judiciary;
- c. To enhance the professional growth and development of members of the Federal legal profession and promote high standards of professional competence and ethical conduct, including through the provision of quality education programs;
- d. To promote the welfare of attorneys and judges in the Federal legal profession, including advocacy in accordance with the mission of the Association and provision of meaningful services and benefits through membership in the Association;
- e. To support the members of the Association including through promoting professional and social interaction, notifying and educating members as to developments in their respective fields of interest, encouraging member involvement in activities of the Association, and providing opportunities for members to assume leadership roles in the Association; and
- f. To promote diversity throughout the legal profession and the Federal Bar Association.

#### **Article IV - Membership**

**Section 1. *Active Membership.*** Any person admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia or any tribal court of record, and in good standing where so admitted, shall be eligible for active membership in the Association and may maintain membership in a Chapter and one or more Sections and/or Divisions; provided such person:

- a. has a substantial interest in or participates in the area of Federal law; or
- b. is or has been an officer or employee of the United States or of the District of Columbia and, while so serving, performs or has performed the work of a legislator, judge, lawyer, or member of a quasi-judicial board or commission.

**Section 2. *Honorary Membership.*** Honorary members of the Association, as hereinafter provided, shall be exempt from payment of dues but shall have full rights and privileges of membership:

- a. The Chief Justice of the United States and Associate Justices of the Supreme Court of the United States shall be offered honorary membership in the Association;
- b. Any person who has rendered conspicuous service to the United States Government or to this Association may be elected to an honorary membership by vote of three-fourth's of the members of the Board of Directors then present;

c. Any judge of the Federal courts established under Article III of the Constitution of the United States, any United States Bankruptcy Judge and any United States Magistrate Judge may be elected to honorary membership in the Association by any Chapter located within the territory of the Circuit in which that judge serves. Such membership shall continue so long as the Judge serves in active, senior, or retired status.

**Section 3. Associates.** Subject to such limitations as are contained in the Bylaws of the Association, any person is eligible to become an associate of the Association, as hereinafter provided. Such an associate may also maintain association with any one or more Chapters, Sections, and Divisions. However, such associate is not a member of the Association; accordingly, in no event may such associate vote or hold any elective office in the Association or in any Chapter, Section, or Division thereof.

a. Foreign Associate. Any person who is admitted to practice law before a court or administrative tribunal of a country other than the United States of America is eligible to become a foreign associate of the Association.

b. Law Student Associate. Any law student actively enrolled in an accredited law school and not admitted to the practice of law before a Federal court or a court of record in any of the several states, commonwealths, territories, or possessions of the United States or in the District of Columbia is eligible to become a law student associate of the Association.

c. Clerk of Court Associate. The “Clerk of Court,” “Deputy Clerk,” “Divisional Clerk,” or “Executive” of a Federal court established under Article I or Article III of the Constitution of the United States or a tribal court of record, or his or her designee, and who is not admitted to the practice of law before a Federal court, or a court of record in any of the several states, commonwealths, territories or possessions of the United States or in the District of Columbia is eligible to become a Clerk of Court associate of the Association.

d. Faculty Advisor Associate. Any individual who holds the position of Faculty Advisor of an established Law School Student Chapter is eligible to become a Faculty Advisor associate of the Association.

**Section 4. Expulsion.** Subject to such due-process limitations relating to notice and opportunity for hearing as are contained in the Bylaws of the Association, the Board of Directors may expel for good cause any member or associate of the Association by a majority vote of the members of the Board of Directors then present. Subject to procedures as are contained in the Bylaws of the Association, any member or associate who has been expelled by the Board of Directors pursuant to this Section shall have the right to appeal from that decision to the National Council of the Association at its next regularly scheduled meeting.

## **Article V – Officers, Directors and Delegates: Nomination, Removal, and Duties**

**Section 1. Elective Officers, Directors and Delegates.** The elective officers and directors of the Association shall assume their respective offices at the beginning of the fiscal year to which they are elected and shall serve through the end of the fiscal year in which their terms expire or until their successors shall have been installed in office. The Association shall have three National Officers: President, President-elect, and Treasurer. No one may serve as a National Officer unless that person is a member of the Association in good standing and has served as a voting member of the



Board of Directors for at least three years. The elective officers and directors of the Association shall be as follows and in the order named and shall be elected to terms of office as indicated:

- a. The President, who shall be elected only in those years when there is no President-elect to succeed to that office. The President shall also serve as a director.
- b. The President-elect, who shall be elected annually as hereafter provided and who shall succeed the President at the expiration of the latter's term. The President-elect shall also serve as a director.
- c. The Treasurer, who shall be elected annually as hereafter provided. The Treasurer shall also serve as a director.
- d. Twelve additional directors, who shall be elected to staggered terms of three years as provided in the Bylaws of the Association. A member appointed to serve the remaining period of a term to which another person was elected, at the conclusion of that partial term, may stand for election for a full three-year term. No director shall serve more than two elected three-year terms (which terms must be non-consecutive) on the Board exclusive of any term based upon service as a National Officer. A person shall not be eligible to serve as a voting member of the Board of Directors following service as National President.
- e. Two Vice Presidents for the Circuit for each Federal judicial circuit, who shall be elected for staggered terms of two years by the members within that Circuit. No Vice President for the Circuit shall serve more than three full terms.
- f. The Delegate or Delegates to the House of Delegates of the American Bar Association, who shall be elected to terms of office for the number of years then provided for members of the House of Delegates by that association. When the American Bar Association authorizes the Association an increase in the number of delegates to that association's House of Delegates, the President promptly shall appoint such additional delegate or delegates with the approval of the Board of Directors at its next regular meeting, to hold office until the next annual election.

**Section 2. Eligibility.** All members of the Association at the time of nomination, whose dues are paid for the current fiscal year and who otherwise are in good standing, and meet all other qualifications, as may be required by this Constitution, Bylaws, and policies of the Association, shall be eligible as candidates for any elective office (including directors) as prescribed in Section 1 of this Article.

**Section 3. Nominations.** Candidates for elective offices of the Association as prescribed hereinbefore may be nominated for office either by the Nominations and Elections Committee or by petition filed in accordance with this section.

- a. The Nominations and Elections Committee shall nominate one or more members, who meet all qualifications and are in good standing, for each of the elective offices (including directors) becoming vacant during the upcoming fiscal year, and each such nominee shall be listed on the ballot as a candidate for the particular office.
- b. Each nominee by petition shall be listed on the ballot as a candidate for the particular office for which nominated. A candidate nominated by petition must be endorsed by not less than 50 members, except that a candidate for Vice President for the Circuit must be endorsed by not less than 20 members of Chapters and/or members at large of the particular Circuit. No member shall

be eligible as an endorser of a petition whose dues are not paid for the current fiscal year or who is not otherwise in good standing. Each petition may propose nominees for one or more offices; however, in no event shall any member be eligible as an endorser of more than one candidate for the same office.

**Section 4. *Removal from Office.*** Any officer may be removed from office for delinquency, inefficiency, neglect of duty, or for other good cause in the same manner and subject to the same due-process limitations as described in Article IV, Section 4, for the expulsion of a member. Any officer so removed shall have the same right of appeal from that decision to the National Council of the Association as described in that Section for an expelled member.

**Section 5. *Vacancies in Office.***

a. In case of death, resignation, or removal of the President, the President-elect shall succeed to that office for the remainder of the term and then shall serve as President during the following term. In case of the death, resignation, or removal of the President-elect between the close of nominations and the annual election, the newly elected President-elect shall assume the office of President for one term only; and, thereafter, a President shall be elected at the next election as provided in Section 1.a. of this Article. In case of death, resignation, or removal of both the President and the President-elect in the same term, the Treasurer shall serve as acting-President until the next regular meeting of the Board of Directors; at such meeting, the Board of Directors shall select an acting-President to serve for the balance of the term.

b. Vacancies in the office of President-elect shall not be filled.

c. In case of death, resignation, or removal of any other officer, the President shall promptly fill such vacancy by appointment, subject to the ratification of the Board of Directors at its next regular meeting.

d. If upon the close of annual elections as prescribed herein and in the Bylaws of the Association no officer, director, or delegate is duly elected, the President shall fill such vacancy by appointment, subject to the ratification of the Board of Directors, except as provided in Section 5b herein.

**Section 6. *Duties of Officers and Directors.***

a. The President shall be the Chief Executive Officer of the Association and the Chairperson of the Board of Directors and National Council. The President shall perform such other duties as properly pertain to the office or as may be required under this Constitution and the Bylaws of the Association.

b. The President-elect shall perform the duties of the President in the latter's absence or inability to discharge the duties of that office and shall perform such other duties as may be required by the President, this Constitution, or the Bylaws of the Association.

c. The Treasurer shall generally be responsible to oversee the financial affairs of the Association. The Treasurer shall have the assistance of the Executive Director and staff of the Association as designated by the Executive Director. The financial affairs of the Association shall include but not be limited to collection and receipt of all moneys due the Association; depositing the same to the credit of the Association in such financial institutions as may be designated by the Board of Directors; maintaining information available to the Board of Directors relating to the dues status of

each member of the Association; and notifying each member each year of the status of that member's national dues for the ensuing fiscal year. Under the direction of the Treasurer, the Association shall keep an itemized record of all moneys received, by whom paid, and for what purpose; and shall submit to the Board of Directors and the National Council, whenever requested by either and at the end of the fiscal year, a financial report in writing including, if requested, a list itemizing all receipts and disbursements for the year. The Treasurer shall make all books, vouchers, and records available to the Audit and Budget & Finance Committees and shall perform such other duties as properly pertain to the office or as may be required by the President, this Constitution, or the Bylaws of the Association.

d. The Directors shall perform all duties as may be required for members of the Board of Directors by the President, this Constitution, or the Bylaws of the Association.

e. Each Vice President for the Circuit shall serve as liaison with all Chapters within that officer's Circuit; shall serve as counselor and advisor for such Chapters in the promotion of their welfare; shall undertake and supervise creation of new Chapters and reactivation of inactive Chapters in that officer's Circuit as appropriate; shall represent that officer's Circuit on the National Council; and shall perform such other duties as properly pertain to the office or as may be required by the President, this Constitution, or the Bylaws of the Association.

f. The Delegate or Delegates to the House of Delegates of the American Bar Association shall represent the Association in the House of Delegates of that association and in such other matters before that association as the Board of Directors or National Council may direct.

## **Article VI - Board of Directors**

**Section 1. *Composition.*** The Board of Directors shall consist of the President, President-elect, Treasurer and the twelve elected directors. When any of the following have not been elected to the Board, they will by virtue of their position serve as ex officio members of the Board without a vote: Chair of the Vice Presidents for the Circuits, Chair of the YLD, and Chair of the Sections and Divisions Council.

**Section 2. *Qualifications of Directors.*** Twelve members of the Board of Directors shall be elected by the Association in accordance with the qualifications and procedures established in the Bylaws of the Association.

### **Section 3. *Duties and Powers.***

a. The Board of Directors shall have full power and authority to function as the governing body of the Association and, in connection therewith, to conduct any and all activities that it may consider necessary or expedient in accomplishing the objects of the Association set forth in Article III. It shall have full control of the business and financial management of the Association. The Board of Directors shall have the authority to establish special committees not in conflict with those provided for in Section 5 of this Article and shall perform such other duties as may be required by this Constitution or the Bylaws of the Association.

b. No funds of the Association shall be obligated or disbursed for any purpose without the approval of the Board of Directors. No proposed purchase or expenditure that is unfavorably reported by the Budget Committee shall be approved, except by a vote of three-fourths of those present and entitled

to vote.

c. The authority of the Board of Directors shall be limited only as follows: (1) amendments to this Constitution and the Bylaws of the Association must be approved according to the procedure established in this Constitution and the Bylaws of the Association; and (2) any decision of the Board of Directors may be altered, amended, or reversed by a majority vote of the National Council.

d. All actions and resolutions passed or adopted by the Board of Directors shall be posted on the website of the Association within thirty (30) business days after each meeting of the Board of Directors.

#### **Section 4. Meetings.**

a. The Board of Directors shall have the authority to establish its own schedule of meetings, but shall meet no less the four (4) times annually.

b. The Board of Directors shall meet specially at other times at the call of the President, at such time and place and for such purposes as the President may consider necessary; provided that no business shall be transacted at any special meeting of the Board of Directors unless notice of the time, place, and purpose of such meeting has been given to all members of the Board of Directors so as to reach them at least three days prior thereto.

**Section 5. Standing Committees.** The Board of Directors shall have such Standing Committees as may be established by the Bylaws of the Association for the purpose of addressing matters of Association-wide operational or programmatic interest. The President shall nominate and, with the approval of the Board of Directors, appoint the chairpersons and members of the Standing Committees to terms as provided in the Bylaws.

### **Article VII - National Council**

**Section 1. Composition.** The National Council shall consist of the elective officers; all members of the Board of Directors; all Past National Presidents who are in good standing; Chairpersons of all Divisions, Sections, and Standing Committees; the President of the Federal Bar Building Corporation; the President of the Foundation of the Federal Bar Association; the General Counsel of the Federal Bar Association; either the President of each Chapter or other Chapter officer as designated in writing by the Chapter President to the Board of Directors; one other delegate from each Chapter to be selected by the Chapter; and not more than 20 members to be appointed annually by the President within 30 days after the latter assumes duties of that office. Appointive members shall be subject to removal by the President with the prior approval of the Board of Directors. A vacancy due to death, resignation, or removal of an appointive member may be filled by appointment by the President. The President's appointments shall have prior approval of the Board of Directors.

#### **Section 2. Meetings.**

a. The National Council shall meet at the Annual and Midyear Meetings of the Association each year as provided for in the Bylaws of the Association. The Board of Directors may combine the National Council meeting with the Annual Meeting of the Association. Notice, as set forth in the Bylaws of the Association, shall be mailed or transmitted electronically to all National Council members at least 30 days prior to the date of each regular meeting.

b. The National Council may meet specially at other times at the call of the President, with the consent of the Board of Directors, at such time and place and for such purposes as the President may consider necessary; provided, that no business shall be transacted at any special meeting of the National Council unless notice, as set forth in the Bylaws of the Association, of the time, place, and purpose of such meeting has been mailed or transmitted electronically by the Association to each National Council member in good standing at least 30 days prior to such meeting.

**Section 3. *Quorum and Procedure.*** Twenty-five percent of the members of the National Council in good standing shall constitute a quorum for the transaction of business. Action by the National Council shall be as provided in this Constitution and the Bylaws of the Association.

## **Article VIII - Divisions**

**Section 1. *Authority.*** The Association shall have such Divisions as are set forth in the Bylaws of the Association.

**Section 2. *Public Positions Taken by Divisions.*** A Division—in the name of the Association—may issue reports, make public announcements, and publicly advocate positions on issues of concern to the Division only with the prior approval of the Board of Directors. Without such prior approval, the Division may take such a public position only if the position generally reflects the views of its members and the position statement includes a disclaimer that indicates that the Division is taking the position in the name only of the Division. In any event, if a Division takes such action in its own name and not in that of the Association, the Division shall report that action immediately to the Board of Directors.

## **Article IX - Sections**

**Section 1. *Sections and Committees.*** The President, with the approval of the Board of Directors, may establish Sections of the Association to consider areas of law of interest to the membership or particular groups of members. Each Section shall enact bylaws, subject to the approval of the Board of Directors, which will provide for the Section's general objectives, operation, and organization—including internal leadership progression and, if desired, Committees within the Section.

**Section 2. *Public Positions taken by Sections or Committees.*** A Section or duly constituted Committee of a Section—in the name of the Association—may issue reports, make public announcements, and publicly advocate positions on issues of concern to the Section or Committee only with the prior approval of the Board of Directors. Without such prior approval, the Section or Committee may take a public position only if the position generally reflects the views of members of the Section and the position statement includes a disclaimer that indicates that the Section or Committee is taking the position in the name only of the Section or Committee. In any event, if a Section or Committee takes such action in its own name and not in that of the Association, the Section or Committee shall report that action immediately to the Board of Directors.

## **Article X - Chapters**

**Section 1. *Organization.*** Any ten or more members of the Association in good standing, who reside, practice, or are employed in the same geographical area, may—upon application to and with the consent of the Board of Directors—organize a local Chapter of the Association for such

purposes, upon such conditions, and embracing such geographical area as the Board of Directors shall prescribe. A Chapter is a part of the Circuit in which it is geographically located.

**Section 2. *Relationship Between Chapters and the Association.***

a. Each Chapter shall enact and maintain bylaws providing for the Chapter's general objectives, organization—including the Chapter's leadership structure and frequency of meetings—and operation. Chapter bylaws may not be inconsistent with this Constitution and the Bylaws of the Association. A copy of the current Chapter bylaws shall be filed with the Association.

b. Chapter affiliation is limited to members and associates of the Association. A Chapter may not refuse affiliation to any member or associate of the Association in good standing who resides, practices, or is employed within the geographic area of the Chapter and who tenders any applicable Chapter dues.

**Section 3. *Modification and Revocation of Chapter Charters.*** The Board of Directors shall have authority to revoke the charter of any Chapter for cause in the same manner and subject to the same due-process limitations as described in Article IV, Section 4, for the expulsion of a member. Any Chapter whose charter is so revoked shall have the same right of appeal from that decision to the Association as described in that Section for an expelled member.

**Section 4. *Public Positions Taken by Chapters.*** A Chapter—in the name of the Association—may issue reports, make public announcements, and publicly advocate positions on issues of concern to the Chapter only with the prior approval of the Board of Directors. Without such prior approval, the Chapter may take such a public position only if the position generally reflects the views of its members and the position statement includes a disclaimer that indicates that the Chapter is taking the position in the name only of the Chapter. In any event, if the Chapter takes such action in its own name and not in that of the Association, the Chapter shall report that action immediately to the Board of Directors.

**Article XI – Law School Student Chapters**

**Section 1. *Organization.*** Any five or more law student associate members of the Association in good standing, who are enrolled in the same accredited law school may—upon submission of the law school student chapter agreement—organize a law school student chapter. Each law school student chapter shall designate one Faculty Advisor and shall advise the headquarters of the association.

**Section 2. *Relationship Between Law School Student Chapters and the Association.***

a. Each Law School Student Chapter shall enact and maintain bylaws providing for the Chapter's general objectives, organization—including the Chapter's leadership structure and frequency of meetings—and operation. Chapter bylaws may not be inconsistent with this Constitution and the Bylaws of the Association. A copy of the current Chapter bylaws shall be filed with the Association.

b. Law School Student Chapter affiliation is limited to associates of the Association.

**Section 3. Modification and Nullification of Law School Student Chapter Agreements.** The Board of Directors shall have authority to nullify the terms of law school student chapter agreement for cause in the same manner and subject to the same due-process limitations as described in Article IV, Section 4, for the expulsion of a member. Any Law School Student Chapter whose agreement is so nullified shall have the same right of appeal from that decision to the Association as described in that Section for an expelled member.

**Section 4. Public Positions Taken by Law School Student Chapters.** A Law School Student Chapter—in the name of the Association—may issue reports, make public announcements, and publicly advocate positions on issues of concern to the Law School Student Chapter only with the prior approval of the Board of Directors.

## **Article XII – Annual Meeting of the Association**

**Section 1. Annual Meeting.** There shall be an annual meeting of the Association at such place and at such time as the Board of Directors may direct. The annual meeting shall be held for the purpose of receiving the report of the Nominations and Elections Committee on the results of the annual election; receiving the reports of the officers, Divisions, Standing Committees, and Sections of the Association; and transacting such other business as may be recommended by the Board of Directors or as may be required by this Constitution or the Bylaws of the Association.

**Section 2. Notice of Annual Meeting.** Notice, as set forth in the Bylaws of the Association, of the time and place of an annual meeting of the Association and the character of the business to be presented shall be mailed or transmitted electronically by the Association to each National Council member in good standing at least 30 days prior to such meeting.

**Section 3. Quorum and Required Vote.** Twenty-five percent (25%) of the members of the National Council in good standing shall constitute a quorum for transaction of business at the Annual Meeting. Action by the National Council shall be as provided in this Constitution and the Bylaws of the Association.

## **Article XIII - Dues**

Annual dues shall be required from each member, other than honorary members, and from each associate of the Association. The amount of such dues shall be fixed as provided in the Bylaws of the Association. The Treasurer shall cause notice of annual dues payable to be mailed or transmitted electronically to each member or associate in a timely manner. If a member or associate fails to make payment of the dues or other lawful indebtedness to the Association as provided for in the Bylaws of the Association, such member or associate shall be suspended from the Association.

## **Article XIV - Authority Regarding Bylaws**

Subject to satisfying the notice and quorum requirements of Article VII, if written notice of the proposal has been included in the notice, the National Council may adopt, amend, or repeal any Bylaw at a regular or special meeting of the National Council upon two-thirds vote of those present and voting pursuant to the provisions of this Constitution and the Bylaws. The Board of Directors

shall have the power and authority to enforce such Bylaws, together with additional policies, rules and regulations as it may deem necessary, not inconsistent with the provisions of the Bylaws and this Constitution.

#### **Article XIV - Amendment to the Constitution**

**Section 1. *Initiation of Amendment.*** A proposal to amend this Constitution may be initiated in any one of the following ways:

- a. Subject to satisfying the notice and quorum requirements of Article VII, by two-third's vote of those present and voting at a meeting of the National Council, if written notice of the proposal has been included in the notice.
- b. Subject to satisfying the notice and quorum requirements of Article VII or Article XI, by two-third's vote of those present and voting at an annual meeting of the Association, if written notice of the proposal has been included in the notice.
- c. Upon petition bearing the signature of at least three per cent of the membership, not more than half of whom may be members of the same chapter.

**Section 2. *Adoption of Amendment.*** An amendment so proposed shall be submitted to the members in good standing under procedures established by the Bylaws of the Association, either mailed or transmitted electronically. An amendment so submitted shall become effective upon the affirmative vote of two-thirds of the members who vote upon it.



# FBA Bylaws

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**Section 2. Membership**

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## 1. National Headquarters and Staff

- A. *National Headquarters.*** The Federal Bar Association shall maintain a National Headquarters at a location to be selected by the Board of Directors. The National Headquarters shall be the repository for the books, records, and reports of the Association and its Officers, Board of Directors, National Council, Divisions, Standing Committees, Sections, and Chapters. Such papers shall be open to inspection by any member upon reasonable application to the Association. Additionally, a roster of the members and associates in good standing, together with listings of the membership of the Divisions, Standing Committees, Sections, and Chapters of the Association shall be maintained at the National Headquarters. All communications with the Association shall be addressed to the Federal Bar Association at its National Headquarters.
- B. *Executive Director.*** The Board of Directors shall employ an Executive Director whose title, terms, and conditions of employment shall be specified by the Board of Directors. The Executive Director shall manage and direct all staff activities of the Association as prescribed by the Board of Directors. The Executive Director shall employ and may terminate the employment of members of the necessary support staff and may fix such employees' compensation within the approved budget and guidelines set by the Board of Directors. The Executive Director shall define the duties of the staff, establish their titles, and supervise their performance, and delegate responsibilities of management as appropriate. The Executive Director shall be responsible for maintaining the books, records, reports and roster of the Association, as noted in Bylaw 1.A.

## 2. Membership

- A. *Applications.*** Application to become a member or an associate of the Association shall be by a form approved by the Membership Committee and shall be accompanied by one year's dues.
- B. *Approval.*** The Association's Executive Director shall process applications at the Association's National Headquarters for review and approval. The Executive Director may refer any application for review and approval to the Membership Committee.
- C. *Honorary Membership.***
- 1. *Federal Judges.*** A chapter may elect to honorary membership a judge who is eligible for honorary membership under Article IV, Section 2.c., of the Constitution. The Chapter shall

notify the Association at the National Headquarters prior to such election. Similarly, the Chapter shall notify the Association if such an honorary member ends service as a judge in active, senior, or retired status.

2. **Other.** A chapter may propose any other person for receipt of an honorary membership in accordance with Article IV, Section 2b of the Constitution, which proposal shall be submitted in advance to the Association at the National Headquarters for approval. Upon approval, the chapter may extend honorary membership to the person(s) so approved.

D. **Secondary Chapter Association.** Although each member is assigned to one primary chapter based upon geographic location or request, such assignment does not preclude association, attendance or inclusion in the events or activities of any other chapter (subject to any applicable dues, fees, or other prerequisites imposed by such other chapter(s)).

### 3. Expulsion from Membership

A. **Cause.** As provided in Article IV, Section 4, of the Constitution, the Board of Directors may expel any member of the Association for good cause. "Good cause" includes, but is not limited to, knowingly engaging in conduct designed to overthrow the constitutional form of government in the United States by force or violence, or knowingly assisting another in such conduct; disbarment by (or resignation with disciplinary proceedings pending before) any State, Federal court or tribal court of record or knowingly engaging in conduct that is in violation of the Constitution of the Association or these Bylaws.

B. **Charge and Response.** A charge for expulsion may be brought by any active member of the Association. The charge shall be in writing and signed by the charging party, and shall describe in detail the act or acts in question and why such act or acts justify expulsion. The charge shall be filed with the Association and shall be referred immediately to the Board of Directors. The Association shall give actual notice to the respondent of the charge and of the right to respond to the charge in writing and in person before the Board of Directors. If a member of the Board of Directors brought the charge against the respondent or is the respondent, that person shall not participate in the Board of Directors' consideration or in its vote.

C. **Board of Directors Action.** At the next meeting of the Board of Directors that allows at least ten days' notice to the respondent, the Board shall consider the charge for expulsion. The Board initially shall consider whether the charge sets forth factual assertions that would constitute reasonable grounds for expulsion, and shall determine by a majority vote whether to dismiss the charge or to pursue the charge as provided in this Bylaw. If the Board of Directors pursues the charge, it shall consider the respondent's written response, if any. If the respondent has requested an appearance before the Board, the Board shall grant the respondent a reasonable opportunity to be heard. After fully considering the charge and any response, the Board shall determine by a majority vote whether to expel the respondent or to dismiss the charge. The Association immediately shall notify the respondent of the Board's action and of the respondent's right to appeal any decision to expel.

D. **Appeal.** If the Board of Directors expels the respondent from the Association, the respondent may appeal that decision to the Association within 60 days from notice thereof by the Association. To appeal, the respondent shall send the Association at the National Headquarters a letter so indicating and may send a written statement for consideration by the Association and a notice of intent to appear before the Association. The appeal will be considered by the National Council at the next regular meeting or at a special meeting called for that purpose. The Association shall give actual notice to the respondent of the time and place of that meeting. The decision of the Board of Directors shall be affirmed unless overruled by a majority of those members of the National Council present and eligible to vote.

### 4. Dues

- A. Amount of Dues.** Except honorary members, each member and associate of the Association shall pay annual dues to the Association. Twenty percent (20%) of each regular (i.e., not associate) annual member's dues (not including sustaining dues), rounded upward to the next one-half dollar, shall be rebated to the Chapter that serves the location of the member's mailing address, provided: If, as of the date of adoption of this Bylaw, a different Chapter is receiving a rebate of a member's dues or if a member designates a different Chapter as the member's primary Chapter, such different Chapter shall receive such rebate. Provided further, if a member opts to affiliate with no Chapter, no rebate shall be paid to any Chapter. Annual dues for members and associates of the Association shall be established by the Board of Directors and National Council. The National Council shall consider the dues recommendations of the Board of Directors upon notification as prescribed in Article VII of the Constitution provided that no proposed change in the amount of annual dues shall be considered unless the members of the National Council shall have received at least thirty (30) days advance notice of such proposed change (including amount(s) thereof).
- B. Dues Adjustments and Payment.** Beginning October 1, 1990, dues for each category of membership, as well as for associates, shall be adjusted by the change in the Consumer Price Index over the previous three years as of the prior January 31st, rounded upward to the next dollar, and will be adjusted similarly every three years thereafter. Beginning October 1, 1996, the Board of Directors may further adjust the amount of such annual dues upward or downward to the nearest whole dollar figure ending in a 0 or a 5, which further adjustment shall not affect the calculation of future adjustments to reflect a change in the Consumer Price Index, as set forth in the first sentence of this Bylaw 4B. In turn, the portion of such dues to be rebated to Chapters shall be adjusted similarly to maintain the percentage level indicated in this Bylaw. Dues payments shall be collected and recorded by the Association at the National Headquarters; Chapter rebates portion of dues will be transmitted to the respective Chapters.
- C. Dues Anniversary.** Members and associates shall pay a full year's dues upon admission and shall be billed annually thereafter within a month of the anniversary month of admission, with the exception that those who were members prior to September 30, 1975, shall be billed at the beginning of each fiscal year.
- D. Waiver of Dues.** A member or associate may request, by a written request to the National Headquarters a waiver of dues for compassionate or exceptional reasons for a period not to exceed one year. The National Headquarters will forward the request to the President-elect for decisions. If the President-elect approves the request, the President-elect will notify the Executive Director, who will notify the Treasurer, the requesting member or associate, and that member's or associate's Chapter President of this decision. The member's or associate's Chapter will receive no rebate with respect to dues that have been waived.
- E. Chapter, Division, and Section Dues.** Each Chapter may collect additional Chapter dues in its discretion, and the Chapter does not need to account for such dues to the National Headquarters. On request of any Chapter, approved by the Executive Director, the Association at the National Headquarters shall collect a Chapter's dues and remit same to the Chapter. Each Division and Section may charge additional Division or Section dues in its discretion; all Division and Section dues shall be collected by the Association at the National Headquarters.
- ~~E-F.~~ Law School Student Chapter Dues.** Each law school student chapter may collect additional dues at its discretion, and the law school student chapter does not need to account for such dues to the National Headquarters.
- ~~F-G.~~ Sustaining Dues.** Members of the Association may distinguish themselves by becoming Sustaining Members. Rebates for Sustaining Members are only paid on the amount equal to active dues. The sustaining portion of the sustaining dues is not eligible for a rebate. Sustaining Membership dues shall be set as established by this Bylaw.

**~~G.H.~~ Purpose of Dues.** Annual dues shall be used to pay the general expenses of the Association. All additional dues collected through Sustaining Dues memberships shall be used primarily to support publications and educational programs of the Association.

**~~H.I.~~ Membership Development and Dues Adjustments.** Effective October 1, 1995, should a Chapter determine that, as a membership development tool, the waiver or reduction of national dues chargeable within its Chapter for a specific category(ies) of members is justified, that Chapter must submit its proposal to the Board of Directors for approval, for that Chapter only, in writing at least sixty (60) days in advance of the next regularly scheduled Board of Directors meeting. Each proposal must include justification and provide for the Chapter to maintain appropriate membership statistics. The Budget Committee shall analyze each such proposal and present its analysis and conclusions at least thirty (30) days prior to the next scheduled Board of Directors' meeting. The prior approval of the Board of Directors must be obtained before the experiment is implemented as a program. Each Chapter which shall obtain approval of such a program shall reimburse the Association for any additional administrative cost related to implementing the program. Each dues experiment program will be limited in duration to no more than three (3) years. Each Chapter with an approved program will submit a written progress report to the Board of Directors annually, so long as the program remains in effect.

## 5. Non-Payment of Dues

- A. **Delinquent Member.** If annual dues of a member or an associate have not been received by the National Headquarters within 60 days after dues have expired for the prior year, the Association shall notify the member or associate that the dues are in arrears and that the member or associate will be suspended from the Association unless the dues are received within 30 days. The Association also shall notify each Chapter with which the member or associate is affiliated and the Vice President for the Circuit in which such member or associate is located of the delinquency.
- B. **Persons Not in Good Standing.** A person whose annual dues have not been received at the National Headquarters within 90 days after dues have expired for the prior year shall be regarded as not in good standing and shall be suspended from the Association. A person who has been suspended from membership for nonpayment of annual dues may be reinstated at any time by payment of the current annual dues.
- C. **Members of the Armed Forces During Time of War.** Notwithstanding the foregoing, all Association members on active duty in the armed forces of the United States during a war, who do not request to the contrary, shall be exempt from the payment of dues while so serving.

## 6. Election Schedule, Procedure, and Requirements

- A. **Nominations by Nominations and Elections Committee and Notice of Election.** By February 1 of each year, any member who desires to be considered by the Nominations and Elections Committee (Committee) for any elective office shall submit a completed Application for National Office (Application) to the Committee. The Committee may also seek out or consider other qualified members of the Association for possible nomination. By February 28 of each year, the Committee shall nominate one or more eligible members in good standing for each of the elective offices becoming vacant for the coming term. By April 1, the Committee shall cause to be transmitted to each member in good standing notice of the upcoming annual election and of the offices to be filled therein; of the Committee's nominations for those offices; and the manner and time by which nominations of candidates may be made by petition as provided in Article V, Section 3.b., of the Constitution and this Bylaw.
- B. **Qualifications and Elections of Officers and Directors**

1. **Qualifications of Officers.** To be eligible for election as a National Officer, a person must be a member of the Association in good standing and have served as a voting member of the Association's Board of Directors for at least three (3) years.
2. **Qualifications and Election of Directors.** Twelve members of the Board of Directors shall be elected by members of the Association as follows:
  - a. Three (3) Board positions shall be filled by current or former Circuit Vice Presidents, elected for staggered three-year terms.
  - b. Three (3) Board positions shall be filled by current or former Chairs of Sections or Divisions, elected for staggered three-year terms.
  - c. Three (3) Board positions shall be filled by current or former Chapter Presidents, elected for staggered three-year terms.
  - d. Three (3) Board positions shall be filled by members who, at the time of election, are age 40 or younger or who have engaged in the practice of law for fewer than ten years and have served as a chapter officer, a national YLD officer or Board member, or as a chapter leader with YLD responsibilities.

A member appointed to serve the remaining period of a term to which another person was elected, at the conclusion of that partial term, may stand for election for a full three-year term. No director shall serve more than two elected three-year terms (which terms must be non-consecutive) on the Board exclusive of any term based upon service as a National Officer.

3. **Qualifications of Vice Presidents of the Circuits.** To be eligible for election as a Circuit Vice President, a person must have been a member of the FBA in good standing for a minimum of five (5) years and have served or be currently serving as a Chapter President or a Chapter Officer.
- C. **Nominations Close.** Nominating petitions shall be delivered to the Committee at National Headquarters by April 25. Any petitions received thereafter shall be returned to the would-be candidate, indicating that the petition was tardy and the date it was delivered to the Committee. Nominating petitions must include a completed Application.
- D. **Notice of Election, Ballots and Voting.** By June 15, the Committee shall cause a Notice of Election to be sent to each member of the Association in good standing. The notice shall list the names of all nominated candidates and candidates by petition in alphabetical order under each elective office. The notice also shall contain such instructions as necessary for members to cast their votes as prescribed by policy adopted by the Board of Directors. A suspended member who is restored to good standing after the transmittal of the notice and who, prior to the election's close, delivers to the Committee evidence of good standing, shall thereupon be entitled to vote. In an uncontested election, the Association shall only send the Notice of Election electronically to members.

The ballot shall contain the names of all nominated candidates and candidates by petition for each elective office as well as space for a write-in candidate for each elective office. In an uncontested election, the Association shall conduct an election in a manner in which the Executive Director and Committee, subject to the approval of the President, deem to be the most efficient and cost effective. Completed ballots shall be received by the Chair of the Committee or by such person as designated by the Chair no later than June 30. The Committee shall review and certify the tabulated votes and report as elected the candidate for each office who has received a plurality of the votes cast for that office by July 1. In the event that there is no nominated candidate or candidate by petition for an elective office, a write-in candidate with a plurality of votes cast shall be certified as the elected candidate if he

or she meets all of the following requirements: is a member of the Association in good standing; meets all eligibility qualifications as prescribed in the Constitution, these Bylaws, and policies of the Association; and receives not less than 50 write-in votes, except for a candidate for Vice President for the Circuit, who must receive not less than 20 write-in votes.

If no candidate for a national office receives a plurality of the votes counted:

- a. in the case of a tie between two (2) candidates, the election shall be resolved by a coin flip in the presence of the tied candidates or their designees by the National President or the President's designee, which shall resolve the tie. The tosser of the coin shall be designated by the President. The candidate whose last name occurs last alphabetically shall call the coin toss;
  - b. in the case of a tie among more than two candidates; the election shall be resolved by drawing straws by the tied candidates or their designees from the hand of the National President or the President's designee. The National President or the President's designee shall prepare the straws and the candidate or designee drawing the longest straw shall win the election.
- E. **Voting Procedure.** Procedures shall be adopted by the Board of Directors to regulate the handling of voting, including the form of notices and ballots, and to prevent abuses of the voting privilege.
- F. **Authority of Nominations and Elections Committee.** The Committee is responsible for monitoring the overall conduct of the annual election and for ensuring compliance with this Bylaw.
- G. **Time.** In the event that any deadline herein specified is a Saturday, Sunday, or legal federal holiday, the next succeeding business day shall substitute for that specific deadline.

## 7. Meetings

- A. **Time of Meetings and Procedures.** Meetings of the Board of Directors and the National Council required by Article VI, Section 4.a. and Article VII, Section 2.a., of the Constitution shall be held at such time and place as the Board of Directors may direct. No proxies may be voted at meetings of the Board of Directors, National Council, or other meetings of the Association. Meetings of the Board of Directors, National Council, and of the Association shall be governed by the Constitution of the Association, these Bylaws and such rules as the Board of Directors and National Council may prescribe. When not inconsistent with such rules, the latest edition of Robert's Rules of Order shall apply. The President shall appoint a parliamentarian for each meeting of the National Council and the Board of Directors.
- B. **Notice of Meetings and Agenda.** Notice of meetings shall comply with the requirements of the Constitution. An agenda for meetings of the National Council and the Board of Directors shall be included with any notice. Additional agenda items for a meeting of the National Council (except as provided in Bylaw 4A or with respect to amendments to the Constitution or Bylaws, which must be addressed only by satisfying the full notice requirements established by the Constitution) may be added by the President or Board of Directors if supplemental notice is provided by mail or electronic transmission no later than ten (10) days before a properly noticed meeting. Upon motion to suspend the notice requirement to address additional business, a two-thirds majority of those present and voting may raise additional issues at a National Council meeting, except that no motion to suspend the notice requirement shall be entertained with respect to amendments to the Constitution or Bylaws.
- C. **Telephonic Meetings.** Upon the decision of the President and appropriate notice, the Board of Directors may convene via telephone, video-conference or other electronic means.

**D. Challenge to Board Action.** Any motion to alter, amend, or reverse a decision of the Board of Directors pursuant to Article VI Section 3.C.(2) of the Constitution shall be presented at least forty-five (45) days prior to the National Council meeting.

## **8. Standing Committees**

**A. Establishment.** Under Article VI, Section 5, of the Constitution, the following Standing Committees, Council, and Boards are established:

### **1. Operational Committees and Council.**

- a. Audit Committee.** The Audit Committee is responsible for securing and reviewing an independent audit. The President shall appoint four (4) Board members and three (3) association members, who will serve for a term of one year. The Board appointees shall not include the President-elect or Treasurer.
- b. Budget and Finance Committee.** The Budget and Finance Committee is responsible for developing and monitoring the implementation of the budget of the Association. The President shall appoint the President-elect, Treasurer, and three (3) additional members of the Board who will serve a term of one year. The President shall appoint the President-elect as chair.
- c. Constitution, Bylaws, Rules, and Resolutions Committee.** The Constitution, Bylaws, Rules, and Resolutions Committee is responsible for considering and reporting on proposed changes in the Constitution and the Bylaws of the Association prior to presenting such proposals to the Board of Directors and/or the National Council. The Committee is responsible for considering and reporting to the Board of Directors on all resolutions prior to presenting such resolutions to the National Council. It is also responsible for studying and considering, on a continuing basis, means of improving the operations and the rules of the Board of Directors and the National Council prescribed pursuant to Bylaw 7.
- d. Government Relations Committee.** The Government Relations Committee is responsible for coordinating and advancing the Association's issues agenda in implementation of policies adopted by the Board of Directors. The Committee shall have at least nine members and the President will appoint a member as chair. The President-elect, the Chair of the Sections and Divisions Council, and the Chair of the Circuit Vice Presidents shall be members.
- e. Membership Committee.** The Membership Committee is responsible for developing and implementing the Association's annual membership recruitment and retention programs.
- f. Nominations and Elections Committee.** The Nominations and Elections Committee is responsible for administering the procedures applicable to nomination and election of national officers of the Association during the annual election as prescribed in Article V, Section 3, of the Constitution and Bylaw 6. The Committee shall be composed of the President, who shall chair the Committee; President-elect; immediate past-President; two Vice Presidents for the Circuit designated by the President; a Division chairperson designated by the President-elect; a Section Chairperson designated by the President, and two Chapter representatives designated by the President-elect. If a member of the Nominations and Elections Committee becomes a candidate for an elective office, the person shall be deemed to have resigned from the Committee *instanter* and a substitute member shall be promptly appointed by the person who originally appointed the resigning member. The substitute member shall complete the original term of the resigning member.

- g. Sections and Divisions Council.** The Sections and Divisions Council as established by the Board of Directors is responsible to coordinate, assist, and supervise the efforts of Sections and Divisions of the Association. The President shall nominate and, with the approval of the Board of Directors, appoint a Chair of the Sections and Divisions Council, and such Deputy Chairs and members as the President may deem appropriate.

## **2. Programmatic Committees and Boards**

- a. Annual Meeting.** The Annual Meeting Committee is responsible for planning and administering the annual meetings of the Association and for recommending to the Board of Directors sites and dates for future annual meetings. The Committee shall be composed of the President, President-elect, the Treasurer, and two members of the Board of Directors and chaired by the President-elect unless the President-elect determines a different composition.
- b. Bench/Bar Relations.** The Bench/Bar Relations Committee is responsible for facilitating and acting as the liaison between the federal judiciary and the members of the Federal Bar Association and for keeping the President and Board of Directors advised as to issues affecting the bench/bar. The committee shall be composed of six (6) members of the Federal bench and six (6) members of the Association and the Clerk of the Supreme Court. The members are appointed to the committee by the President and shall represent as many different Circuits as possible. The President-Elect shall appoint from the committee members the Deputy Chair, who shall become the Chair the following year.
- c. Editorial Board.** The Editorial Board is responsible for developing and publishing The Federal Lawyer. The Committee shall have at least nine members and the President shall appoint a member as chair.
- d. Professional Ethics.** The Professional Ethics Committee is to encourage professional and ethical practice in the Federal bar and to serve as a resource for events and CLE activities of the chapters, sections, divisions, and the national organization regarding professional ethics.
- e. Community Service and Outreach.** The Community Service and Outreach Committee is responsible to coordinate, implement, and assist efforts to serve and support the communities in which members practice. The Committee's responsibilities may include, but are not limited to, community service; civics; efforts to support the well-being of members, their families, and their communities; and activities pro bono publico. The Committee is authorized to coordinate as appropriate with the Foundation of the Federal Bar Association in efforts of common interest. The Committee is intended to support and not displace separate community service efforts of other chapters, sections, or divisions of the Association. The President may authorize formation or cessation of subcommittees of the Community Service and Outreach Committee according to then-current needs and opportunities.

- B. Committee Composition and Terms of Office.** The composition of the following Standing Committees: (1) Constitution, Bylaws, Rules, and Resolutions; (2) Membership; (3) Professional Ethics; and (4) Community Service and Outreach shall consist of at least nine members, at least six of whom are from different Circuits. The President shall appoint a member as chairperson. Any vacancy shall be filled by appointment by the President for the time remaining in the vacated term. The terms shall be on a three (3) year staggered basis.

## **9. Special Committees**

Any Special Committee or Task Force established by the Board of Directors shall go out of existence one year from the date it is established unless prior thereto the Board of Directors shall extend its



existence for another year. The President shall appoint the members and shall appoint the chairperson.

## 10. Divisions

There shall exist the following Divisions, each of which shall enact bylaws, subject to the approval of the Board of Directors, which will provide for the Division's general objectives, organization—including a chairperson and other internal leadership progression—and operation.

- A. **Federal Career Service Division.** There shall be a Federal Career Service Division of the Association. All members of the Association who are or have been officers or employees of the United States or of the District of Columbia are eligible to be members.
- B. **Judiciary Division.** There shall be a Judiciary Division of the Association. All past and present members of the Federal, Administrative, Military, State, and tribal judiciaries and their legal staffs are eligible to be members.
- C. **Senior Lawyers Division.** There shall be a Senior Lawyers Division of the Association. All active members of the Association who are age 55 years or older on the date on which each such member's dues is payable are eligible to be members.
- D. **Younger Lawyers Division.** There shall be a Younger Lawyers Division of the Association, comprised of all active members of the Association who are age 40 years or younger on the first day of the fiscal year of the Association or who have engaged in the practice of law for fewer than ten years as of the first day of the fiscal year of the Association. In the event that the Immediate Past Chairperson, who serves as an officer of the Division the year following his or her term as Chairperson, is older than 40 years as of the first day of the fiscal year of the Association in the year he/she is to serve as Immediate Past Chairperson, or in the event he/she has been engaged in the practice of law for more than ten years as of the first day of the fiscal year of the Association, he/she shall still be an eligible member of the Division for the year he/she is fulfilling his/her term as Immediate Past Chairperson. In the event the Division membership of any Division officer would otherwise cease in accordance with the foregoing, that officer shall remain a member of the Division and in office until the succeeding officers have commenced their terms.
- E. **Corporate and Association Counsel Division.** There shall be a Corporate and Association Counsel Division of the Association. All past or present members of corporate or association counsel's staffs are eligible to be members.
- F. **Law Student Division.** There shall be a Law Student Division of the Association. All Law Student Associate members and Law School Student Chapter Faculty Advisors shall be members of the division. Law Student Associate members are not eligible or authorized to vote or hold any elective office in the Association.

## 11. Public Positions by Association Entities

A Division, Section, ~~or~~ Chapter, or Law School Student Chapter may not issue a public report or take a public position on an issue unless it adheres to the process set forth in the Constitution. A Standing or Special Committee may not take a public position or issue a public report; however, it may make recommendations or submit positions for consideration to the Board of Directors. No report or position may be inconsistent with any existing position of the Association. The Association shall keep a record of every report or position reported to the Board of Directors.

## 12. Assets of Inactive Chapters

Upon determination by the Board of Directors that a Chapter has failed to maintain an active membership of at least ten members for a period of one year, that it has withdrawn itself from the Association, or that it has had its charter revoked, the President shall direct the Treasurer to take

charge of all assets and property of the Chapter and to hold them in trust for one year for the benefit of any Chapter that may organize or reorganize in that geographic area. If, at the end of one year, the Chapter is not reactivated and no new Chapter is organized, title to all such assets of the Chapter shall vest in the Association.

### **13. Fiscal Year**

The fiscal year of the Association shall run from October 1 through September 30 of the following year.

### **14. Amendments to the Constitution and the Bylaws**

**A. *Proposal and Study of Amendments.*** All proposals or petitions to amend (including repeal) provisions of the Constitution under Article XIX thereof, or these Bylaws under Bylaw 14C., except for annual dues changes proposed by the Board of Directors, shall be directed or referred to the Constitution, Bylaws, Rules, and Resolutions Committee for its recommendations. All such proposals or petitions shall reach the Committee at least sixty (60) days before the proposed amendments are to be considered for adoption at a National Council meeting or an annual meeting of the membership, as appropriate. The Constitution, Bylaws, Rules, and Resolutions Committee shall consider all such proposed amendments and shall report on them to the members of the Board of Directors sufficiently in advance of the meeting of the National Council at which any proposed change is to be considered to allow the Board of Directors to consider and express its approval or disapproval of the proposed change; and to the National Council or membership, as appropriate, on or before the dates on which notice must be provided of the next meeting of the National Council or annual meeting of the membership at which such proposed amendments may be acted upon. The Committee shall include in its report the recommendation of the Board of Directors and its recommendations as to whether the proposed amendment conflicts with provisions of the Constitution and other Bylaws, and if so, in what form or with what related changes to the Constitution or these Bylaws as may be necessary and appropriate. The provisions of this Bylaw shall not be suspended.

#### **B. *Constitution.***

1. Report of Constitution, Bylaws, Rules, and Resolutions Committee. The Constitution, Bylaws, Rules, and Resolutions Committee shall prepare a report on the proposal. The report shall include the text of the proposal, the text of any part to be repealed or amended, and a summary of the arguments for and against adoption of the proposal. A copy of this report shall be mailed or transmitted electronically with the ballot to each member of the Association in good standing.
2. Ballots. Returned ballots may not be required to be signed or otherwise identified by the members voting. The envelopes in which the ballots are returned shall be identified to enable the Association to identify them as ballots. The Constitution, Bylaws, Rules, and Resolutions Committee shall be responsible for overseeing the opening and counting the ballots and for reporting the vote.

**C. *Bylaws.*** Subject to satisfying the notice and quorum requirements of the Constitution and these Bylaws, the National Council may adopt, amend, or repeal any Bylaw at a regular or special meeting of the National Council upon two-thirds vote of those present and voting.

### **15. Robert's Rules of Order**

Wherever the Constitution of the Association or these Bylaws omit or fail to address any substantive or procedural matter that is addressed in the most current version of Robert's Rules of Order, the most current version of Robert's Rules of Order shall govern as to that matter.

Base Document Published September 28, 1991

Last revised September 12, 2015; March 28, 2015; April 6, 2013; September 10, 2011; March 19, 2011; September 25, 2010; February 10, 2006; Bylaw 8a (1) (e) added & former (e) through (l) redesignated (f) through (m) April 24, 1999; Bylaw 4 and 14 revised October 10, 1998; Bylaw 4 revised April 25, 1998, effective October 1, 1998; Bylaw 4b revised & bylaw 8a 1(l) added September 21, 1996; Bylaw 6D Revised April 27, 1996; Bylaw 4A, 4B, 4D, and 4H Revised September 16, 1995; Bylaws 6A and 8A2(c) & (g) Revised April 22, 1995; Bylaw 6 Revised October 8, 1994; Bylaw 16 Repealed October 1, 1993

# TAB G

Unfinished Business



# Federal Bar Association

To: FBA National Council  
From: Federal Bar Association Board of Directors  
Date: February 16, 2018  
Re: Policy 2-6

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This memorandum provides background on the Association's Policy 2-6, which the Association understands will be the subject to a motion brought by member David Ferrari of the Massachusetts Chapter. The memorandum includes a brief discussion regarding where the Board's and the National Council's authority lies with respect to Association Policies, and a brief history of Mr. Ferrari's motion regarding the Association's Policy 2-6.

## I. The Board's Authority

The Association's Constitution at Article VI, Section 3 addresses the Board "Duties and Powers." That section provides, in relevant part, that:

a. The Board of Directors shall have full power and authority to function as the governing body of the Association and, in connection therewith, to conduct any and all activities that it may consider necessary or expedient in accomplishing the objects of the Association set forth in Article III. It shall have full control of the business and financial management of the Association.

...

d. All actions and resolutions passed or adopted by the Board of Directors shall be posted on the website of the Association within thirty (30) business days after each meeting of the Board of Directors.

The Constitution at Article XIII, entitled, "Authority Regarding Bylaws" allows the Board to establish policies: "The Board of Directors shall have the power and authority to enforce such Bylaws, *together with additional policies*, rules and regulations as it may deem necessary, not inconsistent with the provisions of the Bylaws and this Constitution." (Emphasis added).

## II. The National Council's Authority

The Association's Constitution at Article VI, Section 3 empowers the Board with "full control of the business and financial management of the Association," but also discusses the Board's authority vis-à-vis the National Council. That Section provides, in relevant part, that:

c. The authority of the Board of Directors shall be limited only as follows: ... (2) any decision of the Board of Directors may be altered, amended, or reversed by a majority vote of the National Council.

A quorum of the National Council is established when twenty-five percent of the members of the National Council in good standing are present. *See* Constitution at Article VII, Section 3.

### **III. The Board's Implementation of Policy 2-6 in 2011, and Update in 2016**

In 2011, the Board established a Sections & Divisions Administrative Fee in the amount of \$4. At the Board's June 17, 2016 (Baltimore) meeting, it unanimously approved an increase in the amount of that Administrative Fee from \$4 to \$6, which was timely posted to the FBA's website.<sup>1</sup>

After the 2016 revision from \$4 to \$6 (shown below in red font), Policy 2-6 now reads:

#### **Policy No. 2-6: Section and Division Administrative Fee**

**Approved By:** Board of Directors

**Date Approved:** June 24, 2011

**Date Effective:** October 1, 2011

#### **Policy:**

Sections and Divisions shall be required to pay an annual administration fee to cover overhead and administrative expenses incurred by the Association. This fee supports staff assistance and administrative assistance provided to all sections and divisions. The administrative fee shall not apply to Divisions without a dues structure.

The annual administration fee does not cover hard cost that are paid by sections and divisions separately, such as printing, photocopying, postage, meals, equipment rental, etc.

The annual cost for each section and division shall be ~~\$4.00~~ **\$6.00** per member per year. The minimum administrative fee of \$500 shall be charged to sections and divisions with less than 125 members. The fee shall be collected from each

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<sup>1</sup> This and other actions taken by the Board during fiscal year 2016 can be found at: <http://www.fedbar.org/MY-FBA/FBA-National-Pushed-Important-Info/Board-of-Directors-Action-Items/FBA-Board-of-Directors-Action-Items-from-FY16.aspx?FT=.pdf>.

section's and division's fund balance during the first two (2) weeks of October each year.

**Purpose:**

To fairly address the cost of overhead in providing support to all sections and divisions activities.

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**Change Notice:** 06/17/2016

**IV. Mr. Ferrari's Motion**

During the Atlanta Annual Meeting & Convention, then-General Counsel Matt Moschella spoke with Mr. Ferrari about the motion that Mr. Ferrari intended to raise at the Atlanta National Council meeting. That discussion resulted in the following e-mail from Mr. Ferrari:

Dear Matt,

As discussed last night here is my motion for the meeting. I believe the proper time to bring it up is under Unfinished Business. Please let me know if you think otherwise and anything else of course on infra.

"I move that the Administrative Fee Policy be reconsidered in its entirety. I recognize that this can not be voted upon today per the Bylaws, which requires 45 days notice for the National Council to change a policy of the Board. Nonetheless, I am giving notice now, because it can be discussed at the Sections and Divisions meeting today as it was not last year, plus the half year time gives all parties a chance to develop written positions and the best policy for the FBA by the Mid Year Meeting at which time we should decide this matter".

This is all I plan to do on this issue at the Nat. Council meeting per our agreement. We are agreed that the administrative fee will just be discussed at the Section Leaders meeting latter that day to start the feedback process. Thank you.

Very truly yours,

L. David Ferrari  
Attorney & Counselor at Law  
Cell: [\(617\) 312-2799](tel:6173122799)  
Email: [ferrarilaw@gmail.com](mailto:ferrarilaw@gmail.com)

Sustaining Member, National Organization of Social Security Claimants'  
Representatives\*  
Chairman, Federal Bar Association, Social Security Section National Board \*

At the Atlanta 2017 National Council, Mr. Ferrari also made a verbal announcement of his intent to raise this motion at the 2018 Mid-year National Council.

Mr. Ferrari's verbal announcement and e-mail to Mr. Moschella appear to have satisfied the form and timing requirements for such motions under the Association's Bylaws at Section 7(D):

*Challenge to Board Action.* Any motion to alter, amend, or reverse a decision of the Board of Directors pursuant to Article VI Section 3.C.(2) of the Constitution shall be presented at least forty-five (45) days prior to the National Council meeting.

#### **V. Proceedings since Mr. Ferrari's Motion**

As requested by Mr. Ferrari in his e-mail above, his motion regarding Policy 2-6 has now been discussed on multiple occasions during Sections & Divisions Council teleconferences.

The Board is not aware of any other written submissions from Mr. Ferrari regarding Policy 2-6.





## **Policy No. 2-6: Section and Division Administrative Fee**

**Approved By:** Board of Directors

**Date Approved:** June 24, 2011

**Date Effective:** October 1, 2011

### **Policy:**

Sections and Divisions shall be required to pay an annual administration fee to cover overhead and administrative expenses incurred by the Association. This fee supports staff assistance and administrative assistance provided to all sections and divisions. The administrative fee shall not apply to Divisions without a dues structure.

The annual administration fee does not cover hard cost that are paid by sections and divisions separately, such as printing, photocopying, postage, meals, equipment rental, etc.

The annual cost for each section and division shall be \$6.00 per member per year. The minimum administrative fee of \$500 shall be charged to sections and divisions with less than 125 members. The fee shall be collected from each section's and division's fund balance during the first two (2) weeks of October each year.

### **Purpose:**

To fairly address the cost of overhead in providing support to all sections and divisions activities.

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**Change Notice:** 06/17/2016