

# NAA Board of Governors Minutes May 9, 2020 (via Zoom)

**President Winograd** welcomed the BOG to the meeting held via Zoom due to the COVID-related cancellation of the Denver meeting. He advised the BOG that the 2020 Annual Meeting and Education Conference has been rescheduled to Atlantic City October 9-11, 2020 in conjunction with the October 9 FMCS-NAA-Philadelphia LERA Arbitration Symposium. He emphasized that advocates and guests are welcome to attend. In a response to **VP La Rue's** question about sponsored receptions, **Paula Knopf** reminded the BOG that the Bloch and BRIC reports expressly advocated against such receptions.

**Consent Agenda** – On motion by Zeiser and seconded by Lowitt, the BOG unanimously approved the Consent Agenda.

**Executive Secretary-Treasurer De Treux** reported the following Membership and Financial figures:

## Membership

	<u>May 2020</u>	<u>May 2019</u>
Total membership	583	599
Regular (full dues)	434	451
A-1 (half dues)	4	4
A-2 (zero dues)	104	102
B (half dues)	31	34
Honorary (zero dues)	10	8

## Financials (as of 5/1/20)

### NAA Accounts:

	<u>May 2020</u>	<u>May 2019</u>
Checking --	\$ 28,923	\$ 98,892
Investment Account (non-reserve) --	\$ 537,446	\$ 641,176
Reserve Funds --	\$ 1,081,355	\$ 1,065,375
 LRF Accounts--	 \$ 483,139	 \$. 484,822
 REF Accounts --	 \$ 571,130	 \$. 555,447

**President Winograd** noted the following Executive Committee actions and BOG votes taken subject to the Email Protocol since the 2019 FEC:

- CPRG Advisory Opinion #26 re: Videoconferencing – approved April 1, 2020
- Governance Committee Recommendations on Constitution and By-Law changes – approved March 10, 2020
- Governance Committee Motion to Reconsider Constitution and By-Law changes – approved April 23, 2020
- Acceptance of Contract with Golden Nugget Casino in Atlantic City for rescheduled Annual Meeting – approved April 23, 2020
- Acceptance of Contract with Grand Hyatt Denver for 2023 Annual Meeting & Education Conference – approved March 25, 2020
- RCI Organizing Committee Proposal – approved December 9, 2019

**BOG Ratification of prior EC Actions:** On Motion by La Rue and seconded by Vonhof, Board unanimously approved the immediate induction of new members scheduled to be inducted at the cancelled Denver meeting on the condition that they attend the New Member Orientation and business meeting in Atlantic City or the 2021 Annual meeting. The new members are Rafael Gely, Daniel A. Silverman, John M. True, Susan J. Panepento, and Timothy S. Taylor.

On motion by Symonette, seconded by Zeiser, the BOG approved extension of LRF coverage to employment arbitration and mediation.

On motion by Zeiser, seconded by Nielsen, the BOG unanimously adopted the Non-Harrasment/Non-Discrimination Policy (attached). Prior to voting, La Rue expressed concerns about the process during which the Committee devoted time and effort to create a more expansive procedure that was later revised by the EC in consultation with Committee Chair Betsy Wesman. While acknowledging the communication issues, Nielsen and Past President Ed Krinsky emphasized that the EC and BOG fully understand the need for the policy but wanted to ensure that the policy as written would receive approval from the BOG and acceptance from the membership. The changes included a focus on harassment and discrimination and enforcement through CPRG procedures. In response to a question from Lowitt, Nielsen assured the BOG that the Internal Grievance Committee will have an ongoing role in training of members and monitoring the implementation of the policy.

**Membership and Membership Standards Committee:** Chair Howell Lankford, on behalf of the Committee, recommended the following applicants for membership: Andrea Dooley, Sandra Furman, Phillip Maier, Mark Travis, and John Woods. On Motion by La Rue, seconded by Garraty, the BOG accepted the Committee's recommendations.

Lankford reported that the Committee will bridge time lost due to the COVID-19 pandemic for future applicants when calculating their number of cases for a 6-year period. The time lost during the lockdown will not be counted in the 6-year period.

Lankford also reported that the Committee has moved to a fully electronic format for applications. He added that a revised description of the membership standards will be posted on the website shortly.

President Winograd thanked Sarah Garraty for her role in chairing the Membership Standards Committee.

**Governance Committee:** On Motion by Nielsen, seconded by Krinsky, the BOG unanimously approved the proposed Constitution and By-Law Amendments to be voted on by the membership at the rescheduled 2020 Annual Meeting and Education Conference (amendments attached). Prior to voting, Vonhof expressed that she had concerns with reducing the size of the BOG if it affected diversity, but she added that the revisions addressed her concerns.

**Videoconferencing Task Force (VTF): Chair Jeanne Charles** explained the role of the Committee and its many activities during the COVID-19 pandemic. President Winograd thanked the Committee for its efforts. The BOG engaged in a discussion about future efforts of the Committee.

**CPRG: Chair Susan Stewart** explained the Committee's Opinion on Independent Research. On Motion by La Rue and seconded by Nielsen, the BOG unanimously adopted the Opinion.

**REF:** President Alan Symonette and Past President Dick Fincher reported on the activities of the REF and shared the consent agenda that governed the REF meeting the day before the BOG meeting. Symonette highlighted areas of possible funding of VTF and other NAA activities. **Governor and REF Board Member Andrew Strongin** offered to coordinate funding issues among the VTF, ArbitrationInfo.com, and other NAA education/communication efforts.

**LRF:** EST De Treux reported that the EC has approved a change in LRF investment policy from a money market account to a 60% stock/40% bond fund, similar to the NAA and REF's investment policy.

**President Winograd** acknowledged the following outgoing BOG members: Past President Ed Krinsky, VPs Bill McKee and Alan Symonette, Governors Steve Befort, Dick Fincher, Michele Miller-Kotula, Jeanne Vonhof. He thanked many of the current BOG members for their service during his term and generally recounted the progress made during a difficult year.

Due to the cancellation of the Denver meeting, the NAA could not hold its annual election of nominated Officers and Governors until the rescheduled meeting in Atlantic City. To ensure the anticipated transition in leadership, President Winograd resigned his position and passed the gavel to President-Elect Nielsen, who assumed the office of President. President Nielsen accepted the resignation of the outgoing Officers and Governors and appointed those Officers and Governors that had been nominated at the 2019 FEC, including President-Elect Susan Stewart, EST De Treux, VPs Amedeo Greco and Joshua Javits, Governors Chris Albertyn, Ruben Armendariz, Melissa Biren, and Jules Bloch.

**President Nielsen** offered opening remarks thanking Past President Winograd for his “graciousness and resolve” during the COVID-19 experience and for a “cooperative and seamless” transition. He outlined his vision for the next year which includes strengthening the Academy’s committees and communications. He announced the restructuring of some committees and the addition of new committees with defined descriptions of their missions. He also announced a plan to issue monthly newsletters to keep members updated between editions of the Chronicle and to produce regular webinars as educational opportunities for the membership and labor management community at large.

**President Nielsen** shared with the BOG his Committee Appointments for the 2020-2021 term.

On Motion by **VP Josh Javits**, seconded by Lowitt, the BOG unanimously elected the Executive Committee, consisting of President Nielsen, Past President Winograd, President-Elect Stewart, EST De Treux, and At-Large Member Jeanne Charles.

On Motion by Winograd, seconded by Zeiser, the BOG unanimously granted the EST authority to sign checks and related documents necessary to conduct the NAA’s normal financial business for the 2020-21 term.

On Motion by Zeiser, seconded by Winograd, the BOG unanimously approved the expenditure of funds for the distribution of a Press Release announcing the appointment of the new Officers and Governors.

Under Other Business, Javits questioned whether advocates and guests should be invited to the rescheduled 2020 Annual Meeting and Education Conference. Assured that they were invited, Javits suggested inviting the National Association of Railroad Referees whose own fall meeting was cancelled. The BOG was informed that registration for the Atlantic City meeting should begin in mid-June.

Upon motion and seconded, the BOG unanimously voted to adjourn the meeting.

## **NON-HARRASSMENT/NON-DISCRIMINATION POLICY**

### **POLICY STATEMENT**

One of the stated purposes of the National Academy of Arbitrators is to “encourage friendly association among the members of the profession.” We are all accomplished professionals, or we would not have qualified for membership. The hallmark of our dealings with one another must be the respect due to a fellow professional. The Board of Governors deems this a basic obligation owed to the profession, the organization and one another. It is the policy of the National Academy of Arbitrators that any member who, in dealings with another member, engages in harassment or discrimination fails in this obligation and is subject to disciplinary consequences to the same degree as a member who violates the Code of Professional Responsibilities.

## **COMPLAINT PROCESS UNDER THE NON-HARASSMENT / NON-DISCRIMINATION POLICY**

The President shall appoint a Coordinator of Internal Grievances, who shall be the contact person for any member who wishes to make a complaint against another member for violation of the non-harassment / non-discrimination policy. The Coordinator will be an ex officio member of the CPRG.<sup>1</sup>

A complaint may be lodged by the subject of the harassment / discrimination, or by a member who witnessed the conduct or statements. On receipt of a complaint, the Coordinator shall investigate the complaint. The complaint and the investigation shall be confidential. The Coordinator shall use his or her best efforts to resolve the complaint on a voluntary basis. If the complaint cannot be resolved, the Coordinator shall make a probable cause determination in consultation with two members of the CPRG. The probable cause determination shall not be subject to any appeal.

If the Coordinator determines that there is no probable cause to support the complaint that discrimination or harassment has occurred, the complaint shall be dismissed. If the Coordinator determines that probable cause exists to support the complaint, it shall be assigned for a hearing before a Hearing Officer selected from the CPRG in the same manner as a complaint alleging a violation of the Code, and the same procedures will be used for the conduct of the hearing and the making of a determination.

## **PROGRESSION OF PENALTIES UNDER THE NON-HARASSMENT / NON-DISCRIMINATION POLICY**

The purpose of this procedure is to correct behavior, and thus there is a presumption of progressive discipline. The normal progression would be:

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<sup>1</sup> Where the Coordinator believes that his or her involvement in the conciliation and investigation process presents a conflict or that he or she should otherwise be disqualified from a particular case, the Coordinator shall so advise the President, who shall designate an Alternate Coordinator for the purposes of that specific case.

- First offense: Confidential letter of caution, maintained in the files of the Coordinator.
- Second offense: Confidential letter of reprimand, maintained in the files of the Coordinator.
- Third offense: Letter of censure and warning, issued by the Executive Secretary Treasurer and copied to the members of the Executive Committee.
- Subsequent offenses: Temporary or permanent suspension of membership and membership privileges. The imposition of this penalty must be authorized by the Executive Committee.

Where the nature and/or the severity of the conduct warrants, the Hearing Officer may determine that discipline shall commence at a higher step in the progression.

### **OTHER CONDUCT**

Any member who has a complaint about objectively offensive conduct or statements by another member, or by a participant in Academy activities, which does not rise to the level of harassment or discrimination, should report that conduct or statement to the President and/or the Executive Secretary Treasurer, who will make appropriate inquiries and, if warranted, intervene with the subject of the complaint.

**Proposed Constitution and By-Laws Changes in connection with  
the Governance Report and Elimination of the FEC**

**As Revised April 30, 2020 by the Governance Committee**

*Dan Nielsen, Chair - Walt DeTreuX - Paula Knopf - Susan Stewart - Andrew Strongin - Jeanne Vonhof*

**Constitution  
Article IV (Current)**

**Section 1.** The government and management of the Academy shall be vested in a Board of Governors consisting of twelve (12) members in addition to the ex-officio members hereinafter provided. At the Annual Meeting in January 1957, four (4) shall be elected for a three-year term, one (1) for a two-year term, and one (1) for a one-year term. At each Annual Meeting thereafter four (4) members shall be elected for a three-year term. After the election to be held January 20, 1950, no member of the Board shall be eligible for two (2) successive three-year terms. (As amended February 2, 1957).

***Article IV - Revised***

**Section 1.** *The government and management of the Academy shall be vested in a Board of Governors consisting of eight (8) members in addition to the ex-officio members hereinafter provided. At the Annual Meeting in 2021, two (2) shall be elected for a three-year term. At the Annual Meetings in 2022 and 2023, three (3) members shall be elected for a three-year term. At each Annual Meeting thereafter, members shall be elected in accordance with the number of expiring terms. No member of the Board shall be eligible for two (2) successive three-year terms. Any member who has previously served on the Board of Governors may be elected to another single three year term after the passage of six (6) years since that member's last term of service expired, provided however that if the nominating committee cannot with reasonable diligence secure a sufficient number of candidates for service on the Board in any year, an individual may be nominated as a Governor in less than six years since that member's last term of service expired. This provision shall not prevent any member elected to a three year term prior to 2021 from serving out a full term.*

**Article VI - Current**

(As amended April 5, 1978)

**Section 1.** The officers of the Academy shall consist of a President, four (4) Vice Presidents, an Executive Secretary-Treasurer, and a President-Elect, who shall serve as ex-officio members of the Board of Governors with the right to vote.

**Section 2.** The President, Vice Presidents, and President-Elect shall be elected at the 1962 Annual Meeting for one-year terms. Thereafter, the Vice Presidents and President-Elect shall be elected at each Annual Meeting for one-year terms. The Vice Presidents shall be eligible for no more than two successive terms in the same office.



The President shall not be eligible for a successive term. At the expiration of a one-year term of office, the President shall automatically be succeeded by the President-Elect who had been elected at the previous Annual Meeting. The retiring President shall serve as an ex-officio member of the Board of Governors for one year with the right to vote. (As amended April 5, 1978).

***Article VI - Revised***

***Section 1.*** *The officers of the Academy shall consist of a President, two (2) Vice Presidents, an Executive Secretary-Treasurer, and a President-Elect, who shall serve as ex-officio members of the Board of Governors with the right to vote.*

***Section 2.*** *The President, and President-Elect shall be elected at the Annual Meeting for one-year terms. Vice Presidents elected to a one year term at the 2020 Annual Meeting shall be eligible for a second one year term. At the 2021 Annual Meeting, one Vice President shall be elected for a single two year term. At the 2022 Annual Meeting, one Vice President shall be elected for a single two year term. A Vice President elected to a two year term shall not be eligible for a successive term. The President shall not be eligible for a successive term. At the expiration of a one-year term of office, the President shall automatically be succeeded by the President-Elect who had been elected at the previous Annual Meeting. The retiring President shall serve as an ex-officio member of the Board of Governors for one year with the right to vote. Pursuant to Article IV, a Vice President or President shall be eligible to be elected to single three year term as a Governor after the passage of six (6) years since that member's last term of service on the Board of Governors expired.*

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**BY-LAWS  
ARTICLE II**

**Annual Meeting - Current**

**Section 1.** The Annual Meeting of the Academy shall be held in the spring of each year at such time and place as shall be designated by the Board of Governors. (As amended June 1, 1988).

***BY-LAWS  
ARTICLE II***

***Annual Meeting - Revised***

***Section 1.*** *The Annual Meeting of the Academy shall be held each year at such time and place as shall be designated by the Board of Governors.*

**BY-LAWS  
ARTICLE V**

**Dues - Current**

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**Section 4.** The dues of members upon whom membership is conferred at the Academy's National Fall Education Conference shall, for the remainder of that membership year, be one-half the amount of the regular dues for that full membership year. The time intervals and procedures in Article V, Section 1, adjusted to the period between the Fall Conference and the Annual Meeting, shall apply to their dues obligations. (Added by amendment June 1, 1988).

***BY-LAWS  
ARTICLE V***

***Dues - Revised***

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**Section 4.** *The dues of members upon whom membership is conferred conditionally shall, for the remainder of that membership year, be one-half the amount of the regular dues for that full membership year. The time intervals and procedures in Article V, Section 1, adjusted to the period between the date of conditional admission and the Annual Meeting, shall apply to their dues obligations.*

**BY LAWS  
ARTICLE VI - Current**

**Membership**

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**Section 4.** The Board of Governors shall act on the recommendations of the Membership Committee at any regular meeting of the Board or at a special meeting called for that purpose. Approval of a recommendation shall require a two-thirds (2/3) vote of those present. Membership in the Academy shall be conferred upon an applicant previously approved by the Board, and who remains eligible for membership, on the occasion of the applicant's attendance and presentation at the Business Session of any succeeding Annual Meeting or, at a plenary session of any succeeding National Fall Education Conference. (As amended June 1, 1988).

**BY-LAWS**  
**ARTICLE VI - Revised**

**Membership**

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**Section 4.** *The Board of Governors shall act on the recommendations of the Membership Committee at any regular meeting of the Board or at a special meeting called for that purpose. Approval of a recommendation shall require a two-thirds (2/3) vote of those present. Membership in the Academy shall be conferred upon an applicant previously approved by the Board, and who remains eligible for membership, on the occasion of the applicant's attendance and presentation at the Business Session of any succeeding Annual Meeting. The Board may grant conditional membership prior to attendance at the Business Session of an Annual Meeting. A person granted conditional membership may hold themselves out as a member, but that privilege shall be revoked if that person fails to attend the Business Session of the next Annual Meeting unless, by two-thirds vote, the Board waives revocation for good cause shown.*