



NATIONAL ACADEMY
OF ARBITRATORS

2021-2023¹

**NAA
DIVERSITY, EQUITY, INCLUSION,
AND BELONGING:
A STRATEGIC PLAN**

**SPECIAL COMMITTEE REPORT
to the
BOARD OF GOVERNORS**

“Differences are not intended to separate, to alienate. We are different precisely in order to realize our need of one another.”

“If you are neutral in situations of injustice, you have chosen the side of the oppressor. If an elephant has its foot on the tail of a mouse, and you say that you are neutral, the mouse will not appreciate your neutrality.”

- *Bishop Desmond Tutu*

¹ This Committee Report is intended to establish the groundwork for the next two years during which time there will be an opportunity for membership comment and input.

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MESSAGE FROM NAA PRESIDENT SUSAN L. STEWART

Diversity, equity, inclusion, and belonging are issues of critical significance, both in the broader world and within the Academy. The articulation of experiences of racism, sexism and bias in the recent past has led to a general recognition of the profound injustices and losses entailed, both for individuals and for society at large. The revelations of the Truth and Reconciliation Commission in Canada, the events in the United States following the murder of George Floyd, and the evidence of the pervasiveness of sexism in both countries are examples of matters that have led organizations throughout North America to reflect on how they can be part of significant and meaningful change.

In 2020, the Academy issued a Statement, authored by then President, Dan Nielsen, that lamented the fact that the Academy has “struggled to achieve even a modicum of diversity”. It notes that our membership does not reflect the workplaces that we serve, and that our many initiatives have not met with significant change. The Statement calls for the Academy to be held to its “noble words” in support of diversity.

But how are we to be held to our noble words? The great statesperson, Nelson Mandela, provides inspiration. He wrote that:

Action without vision is only passing time. Vision without action is merely daydreaming. But vision with action can change the world.

A large and talented committee of Academy members was established to marry the vision of diversity, equality, inclusion and belonging with a concrete plan of action for our organization. The Committee was given a tremendous challenge and a short timeline to address one of the most difficult issues of our era. It responded to the challenge with passion, tenacity, with great intellectual prowess, along with an extraordinary contribution of time. I am extremely grateful to all members, in particular, Christopher Albertyn, the Committee Chair. I look forward to benefitting from the Committee’s work as the Academy, as a whole, rises to the challenge. Of course, it will take time and it will take effort.

All Academy members will have experiences and insights that will inform and enhance our growth on this path forward. Your input into this important

initiative will be warmly welcomed. This Report, carefully considered and drafted, is a start. The membership is encouraged to provide comments and feedback on the Report as the Academy seeks to execute the recommendations in the Report. Ongoing dialogue is encouraged.

It is a great privilege to be President at a time that the Academy has an opportunity to move with the arc of history, to be accountable for our noble words, and to changing our world.

Susan L. Stewart
President

CHARGE TO THE SPECIAL COMMITTEE FROM NAA PRESIDENT DAN J. NIELSEN

March 24, 2021

The Special Committee on a Strategic Plan to Achieve Diversity, Equity, Inclusion, and Belonging is charged with developing a strategic plan for consideration by the National Academy of Arbitrators' Board of Governors. The plan will:

- *describe the scope of the underrepresentation in the Academy for arbitrators of color, women, and other historically underrepresented groups;*
- *identify institutional impediments for arbitrators of color, women, and other historically underrepresented groups in seeking to become arbitrators, and to subsequently gain admission to the National Academy of Arbitrators;*
- *identify concrete steps that can be taken to remove institutional impediments for arbitrators of color, women, and other historically underrepresented groups in seeking to become arbitrators, and to subsequently gain admission to the National Academy of Arbitrators;*
- *identify impediments to the full participation for arbitrators of color, women, and other historically underrepresented groups in the social and professional activities of the arbitration profession, including the activities of the National Academy of Arbitrators;*
- *identify concrete steps that can be taken to remove impediments to the full participation for arbitrators of color, women, and other historically underrepresented groups in the social and professional activities of the arbitration profession, including the activities of the National Academy of Arbitrators;*
- *prepare a comprehensive plan to be implemented by the National Academy of Arbitrators, including its regions and committees, to address and remedy the underrepresentation of arbitrators of color, women, and other historically underrepresented groups within the profession and within the Academy.*

MESSAGE FROM THE MEMBERS OF THE SPECIAL COMMITTEE

This report is the culmination of two years of work by this Committee. The Committee would like to acknowledge and thank Academy members who provided feedback. All comments were considered in the writing of this final report.

Signed,

Christopher J. Albertyn, Chair	Homer C. La Rue <i>BOG Liaison</i>
Ruben R. Armendariz	Randi E. Lowitt
Jules Bloch	Sheila Mayberry
Margaret R. Brogan	Edward B. Valverde
Christopher David Ruiz Cameron	Pilar Vaile
Jeanne Charles	John L. Woods, Jr.
Charles P. Fischbach	

SUMMARY

The Special Committee on a Strategic Plan to achieve Diversity, Equity, Inclusion, and Belonging (DEIB) was charged in 2020 with developing a strategic plan for consideration by the Board of Governors. This strategic plan is designed to position the NAA in transitioning from viewing Diversity, Equity, Inclusion, and Belonging as aspirational to proactively adopting these principles as measurable business practices. This report details the findings of the Special Committee and the recommendations for action to achieve a more diverse, equitable, and inclusive Academy.

PREAMBLE

DIVERSITY, EQUITY, INCLUSION and BELONGING and the CORE VALUES OF THE NATIONAL ACADEMY OF ARBITRATORS

In Spring 2020, the National Academy of Arbitrators (NAA or Academy), through the *Chronicle*, sponsored a “Dialogue on Race.” Shortly thereafter, then Academy President, Dan J. Nielsen, formed a special committee to draft a *Strategic Plan to Achieve Diversity, Equity, Inclusion, and Belonging* (DEIB Plan). We regard the DEIB plan that follows as fulfilling the elements of President Nielsen’s charge.

The Academy is devoted to “equity and fairness” in labor-management relations and employment. It is this principle that can lead the way to address systemic racism. Addressing this issue, the Academy must create a culture within our organization that not only recognizes but also appreciates and acknowledges diversity, equity, inclusion, and belonging for all our members.

The underlying intent of the DEIB Plan is to set forth a plan-of-action for the Academy’s journey to becoming an anti-racist organization and one that is inclusive of and fair to all. This journey and mission are consistent with the core values of the Academy as those values are set forth in the Academy’s Constitution and the *Code of Professional Responsibility for Arbitrators of Labor Disputes* (Code).

The Constitution of the Academy states that its purpose is “[t]o establish and foster the highest standards of integrity, competence, honor, and character among those engaged in the arbitration of labor-management disputes on a professional basis”. A part of the charge by President Nielsen to the Special Committee was to “[p]repare a comprehensive plan to be implemented by the ... [Academy], including its regions and committees, to address and remedy the underrepresentation of arbitrators of color, women, and other historically underrepresented groups within the profession and within the Academy.”² The Academy recognizes that “to ... foster the highest standards of integrity, competence, honor, and character” in the arbitration profession, the Academy must be at the forefront in promoting the principles of diversity, equity, inclusion, and belonging within the Academy itself as well as in the larger labor-management and employment dispute resolution community.

Our *Code* requires that an arbitrator “uphold the dignity and integrity of the office and endeavor to provide effective service to the parties.” To accomplish this goal, it is imperative that an arbitrator “keep current with principles, practices and developments that are relevant to the arbitrator’s field of practice” (*Code*, Art. 1.C.1). In addition, the *Code* states that one of the obligations to the profession is to “cooperate in the training of new arbitrators.” (*Code*, Art. 1.C.4).

Members of the Academy, therefore, have an ethical obligation to learn and to lead as neutrals in service of the parties and the dispute resolution process. That leadership, as a neutral, is intended to implement principles of diversity, equity, inclusion, and belonging within the Academy itself as well as to encourage and facilitate the implementation of those principles in the larger labor-management and employment dispute resolution community.

HISTORICAL CONTEXT OF THE DEIB INITIATIVE

As Canada and the United States emerged from the Second World War, rapidly changing economies needed to pivot from war to peacetime production. In the United States, waves of strikes took hold across industries. In 1947,

² We note the usage of “individuals from underrepresented groups” as language that reflects the changing state of representation, rather than “diverse individuals,” which indicates a fixed status. See Sarah Saska, *How to Define Diversity, Equity, and Inclusion at Work*, CultureAmp, located at <https://www.cultureamp.com/blog/diversity-equity-inclusion-work>.

the consistent application of grievance arbitration ensured that labor and management were able to resolve disputes without disruption to the economy, avoiding strikes and lockouts through expeditious resolution of disputes by skilled independent neutral arbitrators. The creation of the Academy at this moment in history was driven by the recognition that this nascent field required standards of integrity, competence, and ethics, among other goals. The Academy, and the economy, flourished in this post-war period.

There are many who were excluded from the direct benefits of organized labor, whether in the workforce or as arbitrators. In the United States, the National Labor Relations Act excluded by design the workforces dominated by Black people and women (agriculture and domestic work); and even in covered industries, women, Black people, and other minorities were often underrepresented for years due to discrimination within the workplace and within labor organizations. This meant that for many years, individuals from these and other underrepresented groups were not at the negotiating table, and progress towards diversity, equity, inclusion, and belonging has been piecemeal. This is part of the legacy we are left to confront.

The Academy's founding in the aftermath of the Second World War was tied to an economy focused on manufacturing and the white working class. That meant arbitrators and individuals around the negotiating table were more than likely to be white men. That was 75 years ago. In the intervening decades we have experienced profound demographic shifts across workplaces and many positive changes in the work that we do.

The first person of color to be admitted to the Academy was in 1950. From the founding of the Academy, there was a "... firm policy against discrimination on the basis of race or sex"³ The Academy has never denied

... that blacks and women have often been denied a fair opportunity to demonstrate their capabilities, and thus establish the degree of acceptability needed for Academy membership; that it is incumbent on the Academy to cooperate in every appropriate way with programs designed to encourage the continued development of competent, qualified arbitrators among women and

³ Rolf Valtin, Report of the Special Committee to Review Membership and Related Policy Questions of the Academy—Otherwise Known as the Reexamination Committee (Reexamination Committee), PROCEEDINGS (App. F.) (1976)

minority groups; and that we would be less than proud of an Academy which failed to be sensitive to the barriers facing these potential members.⁴

When these words were penned in 1973, "... [o]ut of total of 450 persons, the Academy ... [had] seven [B]lack and five women [members] [,] ... plainly distressing statistics."⁵ Unfortunately, the Academy then did not see how to "... rectify [the diversity disparity] without abandoning general acceptability by the parties as the central measure of qualification for membership."⁶

Leaders of the Academy, however, did not ignore the challenge. Jean McKelvey, nicknamed the "mother of arbitration", became the first woman to be admitted to the Academy in 1947 and in 1970 was the first woman to be elected the Academy's President. Noting the underrepresentation of women in the Academy, Professor McKelvey established in 1978 an arbitration training program for women and minorities.

In 1998, the Academy elected its first President who was Black, James M. Harkless. His undeniable success as an arbitrator was due to an understanding of labor relations based on his personal experience in the workplace combined with his diligence as a labor lawyer. President Harkless emphasized the importance of recognizing age and experience in the membership standards "... without regard to gender or race."⁷

Margaret Brogan, the 70th president of the Academy and the seventh woman to be President, reiterated a call-to-action by the Academy to address the lack of diversity in the Academy and among the ranks of arbitrators. In her 2017 Presidential address, President Brogan said:

I was reminded that the Academy's story includes the fact that even though this is the 70th birthday of the National Academy of Arbitrators, I am only the seventh woman to be president of the Academy.... There was a 25-year gap in the Academy's history from 1980 to 2005 when no woman was called to be president despite

⁴ Reexamination Com. at 371.

⁵ *Id.* at 370.

⁶ *Id.*

⁷ Interview by Clara Friedman of James M. Harkless, NAA President 1998, National Academy of Arbitrators History Committee Interview, Jun. 25, 1996 at 38 (Nov. 10, 1995 and June 25, 1996).

many illustrious and worthy female members in our ranks. This history is important to remember.⁸

Many of Past-President Brogan's initiatives are included in this Report. Many persons in the leadership of the Academy have continued the tradition of Jean McKelvey—working to make the Academy more than anti-discriminatory, but rather, diverse and inclusive.

President Brogan went on to say in her 2017 Presidential address:

It is obvious that there would be enormous benefits if we expanded the diversity of labor arbitrators and Academy members while at the same time respecting age and experience. I believe we are at a crisis point. It is my view that if we do not increase our diversity in the Academy, and do it soon, there will be a lack of trust in our organization by outside parties, resulting in a lessening of the organization's influence, relevance, and reputation. Academy membership will simply not mean the same. Parties, in selecting arbitrators, will not attach as much significance to our being an Academy member if they see our organization as out of touch. This is not a problem way over the horizon, but facing us today.

We need arbitrators in our ranks who reflect the full diversity of our society. We know that we can only benefit from a greater inclusion of individuals with different life experiences. We know that our arbitrator ranks often fail to mirror the folks who sit at our arbitration table and seek our justice. We need to find a way to meld those diverse stories into the Academy's narrative.⁹

From the founding of the Academy to now, individuals and organizations have placed their trust in our institution. As Haydee Rosario reflected in our 2021 *Dialogue on Race*, "you walk into a room and you are the person who's going to determine the livelihood of that person in the room." There is power

⁸ Margaret R. Brogan, "Presidential Address: Changing the Narrative: A Call to Increase Diversity and Inclusion in the Ranks of the National Academy of Arbitrators," in *Arbitration 2017: The New World of Work, Proceedings of the 70th Annual Meeting, National Academy of Arbitrators* 245, 249 (Stephen L. Hayford ed. 2018). See also <https://naarb.org/presidential-addresses/>.

⁹ *Id.* at 250-251.

in that position, and we hold that power because of trust. The foundation of that trust is our promotion of fair treatment for those in the workplace.

As Barry Winograd reflected in his presidential address in 2020, arbitrators “care about fairness and due process. They believe in evidence. They are willing to listen to and exchange ideas with others, even if opinions differ, and they do. And they care about their work and their decisions.” These priorities reflect, as President Winograd said, “a professional institution devoted to rendering honest service in deciding issues of justice at the workplace.” This commitment – of which we should be very proud – contributes to that foundation of trust.

But that does not mean trust is guaranteed. We take great pains to uphold the highest standards of professional responsibility. What keeps the Academy relevant in the future? In the *Dialogue*, Haydee Rosario reflected: “[Y]ou look at the labor sector. There is a disconnect. . . between the base and the people deciding—who decide who gets to work and who doesn’t. Because you are at the table—negotiating and it’s quite diverse there. They bring the members to the negotiation table. So, what happens, who decides who’s the arbitrator?” Put another way, by Alan Symonette, “if we do not take steps to include those people who are subject to our power, then we will lose their trust.”

The Academy and arbitrators met the challenge to play a pivotal role in resolving labor disputes after the Second World War, keeping powerful economies firing on all cylinders. The challenges we face today are ensuring that our institution reflects the industries and businesses that we provide crucial service to; and acting to bring about greater equity, fairness, and justice in the workplace dispute resolution sector.

The leadership of the Academy is committed to and has initiated the process of addressing these fundamental inequalities of access and opportunity associated with underrepresentation. Part of its initiative in this regard is the development of this “DEIB Strategic Plan” (or simply “Strategic Plan”), which addresses both inward and outward facing action.

GOALS OF THE STRATEGIC PLAN

A. Defining the Objectives of the Strategic Plan

The then-President of the National Academy of Arbitrators (NAA or the Academy), Dan Nielsen, in consultation with the Executive Committee of the Academy, has established that, as an organization, the Academy must strive to enhance its admissions and support of members who are representative of the communities served by the NAA. In doing so, President Nielsen has declared that a plan of action is needed to mentor and support arbitrators and emerging arbitrators who reflect the race, ethnicity, gender, and other underrepresented groups that compose the population it serves. President Nielsen has also declared that its internal structure, processes, and activities must reflect and meet the needs of all members.

In response to this aspiration, President Nielsen established the Special Committee on a Strategic Plan to achieve Diversity, Equity, Inclusion, and Belonging (DEIB) and charged its appointed members with developing a strategic plan for consideration by the Board of Governors.

This charge includes the creation of a plan that:

- describes the scope of the underrepresentation in the NAA for arbitrators of color, women, and other historically underrepresented groups;
- identifies both industry and institutional impediments for arbitrators of color, women, and other historically underrepresented groups that disproportionately impact their access to: (1) becoming an arbitrator; (2) gaining admission to the NAA; as well as (3) social, professional, and business development opportunities offered by the arbitration profession and/or the NAA; and
- prepares a comprehensive plan to be implemented by the NAA, including its regions and committees, to address and remedy such impediments concerning historically underrepresented groups within the arbitration profession and the NAA.

This document is the DEIB Strategic Plan that the Special Committee was charged with creating.

Mission Statement

Based on the Committee's charge, the mission of the DEIB Strategic Plan is to establish **Diversity** as a core NAA value by integrating and formalizing the principles of **Equity**, **Inclusion**, and **Belonging** within institutional standards, policies, practices, and protocols.

B. DEIB Helps Us Live up to Our Promise and Our Potential.

We acknowledge that there are injustices and inequities that exist in the world. The aspects of inequity that the Academy is able to address are the composition and sense of belonging for members of its own organization, the manner in which inequity is addressed in workplace dispute resolution, and in ensuring that the selection and practice of arbitration itself is free of injustice and inequity. Addressing these aspects will, moreover, help us as an organization to live up to our promise and potential.

The Academy is equipped to make positive change through its work. By welcoming and cultivating diversity, equity, inclusion, and belonging in our culture and our practices, we are living the values of the organization and better reflecting the society we live in.

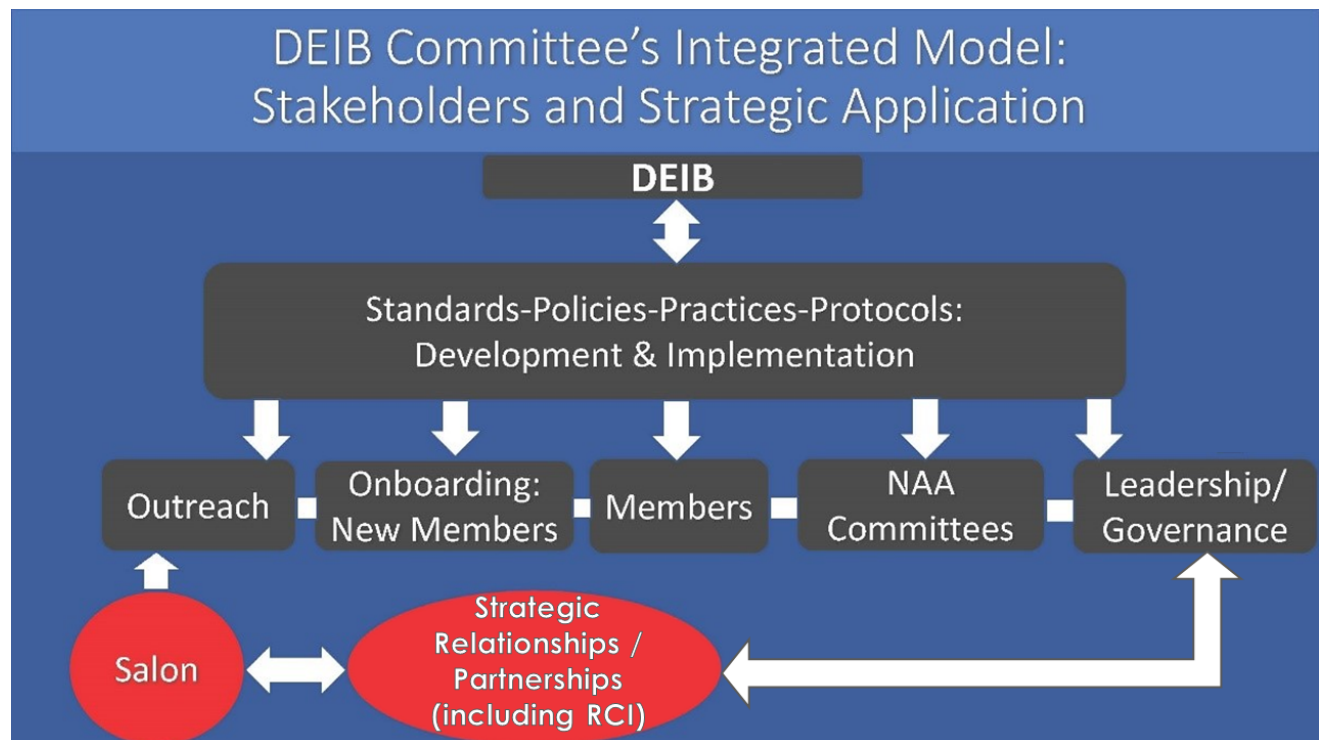
Building an inclusive culture requires the support and participation of everyone in a community, not just a few. Some of us may think about aspects of our identity on a day-to-day-basis; for instance, individuals who belong to underrepresented groups may be reminded of where they fit, or don't, in a community. For others, however, various identities are not always salient, and talking about identity, privilege, microaggressions, and exclusion can be hard.

All our members are privileged on some dimension, if not multiple ones. Privilege doesn't make anyone a bad person. It doesn't mean one hasn't worked hard to get where they are or experienced challenges in their life. A goal of this effort is to learn and understand what each person's identity brings to the table and how others' experiences are impacted by their respective identities. Every person's unique perspective is essential for an inclusive culture. And when we can understand places we hold power, we gain an opportunity for allyship to those who feel marginalized in certain workspaces.

Additionally, studies find that Diversity and Inclusion eliminates

organizational “blind spots” and self-reinforcing “echo chambers” by providing a wide spectrum of opinions and data that assist in effectively navigating organizational issues and structurally addressing emerging best professional practices. Thus, Diversity and Inclusion not only foster institutional professional intelligence, but also cultivate an organizational culture that mirrors and aptly responds to the needs of the communities to be served. Therefore, this strategic plan is designed to position the NAA in transitioning from viewing Diversity, Equity, Inclusion, and Belonging as aspirational to proactively adopting these principles as measurable business practices.

C. DEIB Committee’s Integrated Model: Stakeholders and Strategic Application



The DEIB Committee’s *Integrated Model* is designed to integrate the Committee’s research and planning efforts to assist NAA in uniformly facilitating the development and implementation of DEIB standards, policies, practices and protocols. Based on best practices, the Committee has identified

the implementation of such efforts through the following targeted areas and formulated goals:

- *Messaging* (creating the proper messaging to the labor-management, employment relations, and academic communities of our shared goals to promote diversity, equity, inclusion and belonging);
- *Outreach and onboarding* (promoting diversity through collaborative and strategic relationships/partnerships, such as the Salons and Ray Corollary Initiative (“RCI”) discussed herein; as well as mentoring, training and assisting a diverse population of newer arbitrators including those in the early stages of considering the transition to becoming an arbitrator);
- *Inclusion* (integrating DEIB as a cultural and core NAA value through new member orientation and training, and inclusion on panels and committees);
- *Belonging* (sustained welcoming of new members into the NAA to build their confidence, trust, and collegiality within the NAA);
- *Membership* (providing support and continuing DEIB education for NAA members);
- *Operations* (guiding and aiding the implementation of the Strategic Plan);
- *Leadership* (ensuring the representation and implementation of stated DEIB goals and values at the regional and national levels);
- *Strategic Partnerships and Relationships* (potentially collaborating with various bar associations, academic institutions, professional labor and/or employment organizations including RCI, and provincial, state and/or local agencies, to enhance implementation of shared DEIB goals); and
- *Governance* (integrating and representing best DEIB principles and practices by, before, and within all NAA governance structures, including the Board of Governors; its Bylaws and Constitution; various Committees, Chapters and Regions; all processes and applications for admission; and all other organizational activities).

Based on best practices, the Committee has identified the implementation of such efforts through the following areas to support the

enhancement of organizational effectiveness through DEIB efforts: (1) outreach and initiatives (e.g. the Salon, RCI, etc.); (2) the new member onboarding process; (3) continuing education for Academy members; (3) diversity and leadership representation on Academy committees; and (4) Academy Executive Leadership and Governance.

COMMITTEE'S MANDATE

- 1.** As noted in the Charge to the Special Committee from President Dan J. Nielsen, the Committee was established to devise a strategic plan addressing specific issues related to diversity, equity, inclusion and belonging that impact the Academy and the institutions and individuals we serve.
- 2.** The Committee interprets this mandate to mean that its task is to prepare the strategic plan. Its function then ends. Subject to approval of the strategic plan by the Academy, the implementation of the plan will pass to a different committee or structure within the Academy. Proposals are made below as to what form that structure of implementation may take.

METHODOLOGY

- 3.** The Committee takes as its guiding assumptions that:
 - a. Diversity concerns the level of representation within an organization of the different communities it serves, particular with due representation of those from equity seeking groups. The Academy wishes to become an organization that is more representative than it is currently of the communities served by Academy arbitrators.
 - b. A reasonable goal is for the Academy to better reflect the races, ethnicities, sexual orientations, disabilities, and gender identities of the population at large.
 - c. Principles of equity need to be identified, encouraged, and fostered within the Academy.
 - d. In keeping with the overall focus, our charge might be more appropriately viewed as “EIBD” – to reflect that we must first understand equity issues to further explore inclusion and belonging as we pursue diversity.¹⁰
 - e. The Academy should encourage robust engagement to foster a

¹⁰ Notwithstanding this comment, we use the more recognized acronym, DEIB, hereinafter in the document.

sense of belonging among all members.

4. Equity recognizes that each person has different career circumstances and that opportunities for career advancement as arbitrators should aim to achieve fair outcomes for those who have been historically disadvantaged and marginalized. Equity seeking groups¹¹ – used as a term of art in Canada – are those that have been historically subject to discrimination resulting in their unequal access to opportunities to become established as Academy arbitrators. In practice, this means that those from visible minority groups – e.g. indigenous people and people of colour – and those from certain minority ethnic backgrounds, women, members of the 2SLGBTQAI+¹² community, and those living with disabilities have faced additional impediments, making it harder for them than their counterparts to become established arbitrators. Consequently, the dominant group within the Academy continues to be able-bodied cisgender white men, and equity seeking groups are less represented among Academy members, notwithstanding significant demographic shifts in the modern workplace.

5. Intersectionality is a feature of equity. Some individuals are within more than one marginalized group, and face challenges that are common to more than one minority experience. Their experience needs to be considered as part of addressing the barriers to their progress as arbitrators.

6. Diversity includes distinctions of race, ethnicity, culture, language, geography, disability, gender, sexuality, and sexual orientation. Those from equity seeking groups should be able to feel as comfortable and included within the Academy as any other Academy member.

¹¹ This Plan was drafted by a committee made up of arbitrators from Canada and the United States; therefore, there are terms used and the spelling of words that are distinct to Canada or the United States. No attempt has been made to change the meaning of such terms or the spelling of such words as they are used and spelled in the two respective countries.

¹² We use the acronym “2SLGBTQAI+” because of its inclusiveness and because of its broad acceptance within the community described: two-spirit, lesbian, gay, bisexual, transgender, queer, intersex and asexual while + stands for other ways individuals may express their gender and sexuality outside of heteronormativity and the gender binary paradigm.

7. The principal reason for supporting diversity, equity, inclusion, and belonging within the Academy is that sharing different lived experiences creates a greater awareness of our separate circumstances and allows for deeper understanding of our differences. Also, harnessing all perspectives and talents within the Academy enhances its breadth and depth. Through such inclusion, Academy members can become more responsive, and more just in the exercise of their authority as arbitrators in their work. This interest has been expressed as follows:

The best hope of solving all our problems lies in harnessing the diversity, the energy, and the creativity of all our people.¹³

8. A secondary reason for supporting diversity, equity, inclusion, and belonging, is the potential effect of lack of diversity in arbitrator selection on the parties and grievants (grievors). Some scholars have expressed the view that informal dispute resolution (including arbitration) is more likely than formal dispute resolution (including litigation) to permit participants of higher status or power to act on their prejudices. This places people of color and other disputants at a greater disadvantage.¹⁴

9. The labour and employment relations parties should be confident that the arbitrators who hear their cases can identify with the realities they experience. All who appear in arbitration cases, whether as grievants, employees, stewards, supervisors, managers, and representatives, in labor and employment arbitrations, should feel that the person hearing their case can relate to their perspectives and lived experience. A more diverse panel of arbitrators will contribute to the parties' perception that they receive procedural and substantive fairness in arbitration and that their voices are heard.

¹³ Diversity: Celebrating the Differences, Dan Zadra & Kristel Wills, eds., 2006, p. 60.

¹⁴ See, e.g., Chandrasekher, Andrea, *An Empirical Investigation of Diversity in U.S. Arbitration* (March 1, 2021), available at SSRN, <https://ssrn.com/abstract=3903718>. See also Richard Delgado, Chris Dunn, Pamela Brown, Helena Lee & David Hubbert, *Fairness and Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution*, 1985 Wisc. L. Rev. 1359, 1402-03; and Sarah Rudolph Cole, *The Lost Promise of Arbitration*, 70 S.M.U. L. Rev. 849, 850-51 (2017).

10. The Academy should lead the broader labour-management community in promoting DEIB. Individual members create the Academy's culture and for that culture to be more inclusive and inviting – particularly to those from marginalized groups – the Academy should increase awareness of the impact of equity issues on the profession.

11. This report aims to analyze the impediments and proposed solutions at the following stages of an arbitrator's career:

- a. Emerging from law or labour relations or other professional practice and moving towards becoming a labour or employment arbitrator.
- b. Expanding one's arbitration practice in order to become qualified to be considered for membership in the Academy.
- c. Increasing new members' and relatively new members' sense of inclusion and belonging in the Academy.
- d. Increasing the participation of marginalized group members of the Academy within its structures and activities.

12. This report also aims to recommend structures that enable the Academy to reflect upon its progress in the promotion of DEIB, and that can review the effectiveness of each of its DEIB initiatives and be transparent and accountable.

SCOPE OF UNDERREPRESENTATION

13. There is no systemic collection of data on marginalized group or equity representation within the Academy. Among the recommendations proposed is that this deficiency be corrected.

14. The information available to the Committee is anecdotal. That information suggests that only about 20% of the Academy membership are women and only about 7% of Academy members are persons of colour. There is no reliable information on the extent to which 2SLGBTQAI+ or disabled individuals are represented within the Academy. A survey of approximately

400 labor and employment arbitrators, including Academy members,¹⁵ was conducted in 2019 with the support of the National Academy of Arbitrators' Research and Education Fund (REF). The result showed the following demographics, which are generally consistent with the anecdotal data:

	Labor neutral %	Employment neutral %	Multi-neutral ¹⁶ %
Gender			
Male	83	80	79
Female	17	20	21
Race			
White, Non-Hispanic	95	96	95
Non-White ¹⁷	5	4	5

15. From the above, we can conclude that individuals who identify as persons of color, women, and individuals from the other communities discussed are underrepresented in arbitration compared to the population at large. The dearth of individuals from these groups among arbitrators and mediators is obvious¹⁸ even if the reasons for this are the subject of debate.

¹⁵ Arbitration 2019 – The Future of Work, Proceedings of the 72nd Annual Meeting, NAA, Bloomberg Law, May 29-June 1, 2019, Chapter 12 – Characteristics and Professional Practices of Labor and Employment Neutrals, Mark D. Gough, p. 233.

¹⁶ Defined as "... practitioners engaged in both labor and employment arbitration and/or mediation. *Id.* at 138. The author defines such neutrals who have engaged in both labor arbitration and/or mediation and nonunion employment arbitration and/or mediation "... as "Multi-neutrals." *Id.* at 6.

¹⁷ Michael Z. Green, *Arbitrarily Selecting Black Arbitrators*, 88 Fordham L. Rev. 2255, 2257-58 (2020) (illustrating general lack of African American arbitrators by discussing example of commercial intellectual property dispute involving rapper Shawn C. ("Jay-Z") Carter, who challenged AAA roster listing some 200 arbitrators, none of whom was African American).

¹⁸ Sasha A. Carbone and Jeffrey T. Zaino, Increasing Diversity notwithstanding significant demographic shifts in the modern workplace. Among Arbitrators: A Guide to What the New Arbitrator and ADR Community Should Be Doing to Achieve This Goal, NYSBA J. 33 (Jan. 2012):

The legal profession, from which many arbitrators are drawn, ... lags other professions regarding diversity and inclusion. As of 2012, African Americans and Hispanics comprised 16.5% of accountants and auditors, 18.9% of financial managers, 12.3% of physicians and surgeons, but only 8.4% of attorneys. [Footnote omitted.] Women, members of racial and ethnic groups, members of LGBTQ groups, and attorneys with disabilities continue to be underrepresented in the legal profession. Data as a whole show some progress over time—as of December 2016, minorities represented 16% of law firm associates, partners, and counsel and 35% of all law firm attorneys were female. [Footnote omitted.] However, data at more senior levels of the profession and for certain diverse groups present a bleaker picture. In the words of the 2017 Vault/MCCA Law Firm Diversity Report, even as firms have become more diverse and minority representation is at an all-time high,

16. The lack of diversity within the NAA reflects the pattern in arbitration generally. AAA's 2019 B2B Dispute Resolution infographic reported that in 2019, just 26% of arbitration cases considered a diverse roster, and 30% of arbitration cases used appointments of individuals from underrepresented backgrounds.¹⁹ The International Centre for Settlement of Investment Disputes (ICSID) panels formed from 2012 to 2017 show that out of 951 appointments, 11% were women.²⁰

17. Looking at race and gender, women make up just over 50% of the population, and persons of colour (depending on the area or region) are in the range of 20% - 40% (over 20% in Canada, about 40% in the US); but the Academy's membership is not representative of the broader population. The Academy ought to aim for better representativeness.

18. However, the notions of representativeness and of underrepresentation by equity groups (women, persons of colour, persons from minority groups historically subjected to discrimination, 2SLGBTQAI+ people, and persons with disabilities) require a fuller elaboration. First, the figures of underrepresentation above only describe the actual breakdown for certain equity groups (women, Black, and Hispanic arbitrators); there are no statistics, for example, for 2SLGBTQAI+ or disabled persons. There is also no

"the demographic shifts are both incremental and uneven" and "composition of the partnership ranks highlights the slow rate of change". [Footnote omitted.]

[E]ven though one in four law firm associates is a person of color, more than 90 percent of equity partners are white. Among women, the figures are especially stark: women of color represent 13 percent of associates but less than 3 percent of equity partners. [Footnote omitted.]

See Ben Davis, ABA Resolution 105 Report to the ABA House of Delegates, ABA DISPUTE RESOLUTION SECTION, p. 1, 1-2 (Aug. 2018).

¹⁹ It is unclear from the infographic, however, whether 30% of all appointments were of individuals from underrepresented backgrounds, even when a diverse roster was not utilized. There is no doubt, however, that there is a lack of diversity in appointments. See American Arbitration Association, 2019 B2B Dispute Resolution Infographic, located at https://www.adr.org/sites/default/files/document_repository/AAA261_2019_B2B_Infographic_0.pdf.

²⁰ Joshua Karton and Ksenia Polonskaya, *True Diversity Is Intersectional: Escaping the One-Dimensional Discourse on Arbitrator Diversity*, Kluwer Arbitration Blog (July 2018), located at <http://arbitrationblog.kluwerarbitration.com/2018/07/10/true-diversity-is-intersectional-escaping-the-one-dimensional-discourse-on-arbitrator-diversity/>.

reference to what ought to be the target of representativeness, i.e., when the NAA might be able to say, “we are a diverse organization”, or “we have achieved a level of inclusion that suitably represents all equity groups”.

19. We recommend that the DEIB Coordinating Committee measure the gap of underrepresentation by race, ethnicity, sexual orientation, disability, and gender identity, and address how to close the gap of underrepresentation. Advice from equity experts should be sought on the questions raised here and on how, and what, equity targets should be set appropriately.

20. The barriers to advancement in the arbitration profession are different for women and for persons of colour, and within races and between different ethnicities. For example, the barriers into the profession and becoming successful are different for Black arbitrators as measured against White arbitrators—female or male. Therefore, the DEIB plan should differentiate between the impact of barriers on account of race as compared to gender. Different initiatives are required for different equity groups to achieve genuine diversity.

21. Overall, as will be seen, this report recommends greater efforts by the Academy to achieve higher levels of diversity, inclusion, equity and belonging within the NAA.

EVIDENCE AND JUSTIFICATION FOR DEIB - THE BUSINESS CASE

22. There is also a substantial business case to be made for the benefits to the NAA of greater DEIB.

23. Consumers and industry stakeholders have initiated a cultural revolution that demands organizations within all industries adhere to the principles of Diversity, Equity, Inclusion, and Belonging in their operations, practices, and associations. As such, it will likely be in the NAA’s best business interest to translate DEIB aspirations into tangible business practices. Therefore, the NAA should become proactive in integrating these

principles within its overall business framework. Through this paradigm shift, the NAA will not only strengthen its organizational culture and industry standing, but also potentially contribute to the continued financial success of the organization and its members. The following is a business case in support of DEIB.

A. Major Employers and Unions Are Facing the Demands and Expectations for Diversity, Equity, Inclusion, Belonging

24. Notable NAA partners including the United States Postal Service (USPS), the Communication Workers of America (CWA), United States Internal Revenue Service (IRS), and Major League Baseball (MLB), are deeply engaged in efforts to enhance diversity, equity, and inclusion.²¹

25. In an agreement between the City of Philadelphia and the Fraternal Order of Police, selection of members of an arbitration panel requires that “[a]t least forty percent (40%) of the [panel] arbitrators will be people who identify as women, people of color, members of the LGBTQ+ community, or other underrepresented groups.”

27. Amtrak announced in April 2021 a proposal to its various unions to adopt the principles of the Ray Corollary Initiative,²² namely that that

²¹ The Postal Service is one of the leading employers of minorities and women, with minorities comprising 39% and women comprising 40% of the workforce. 21% of employees are African American; 8% are Hispanic; 8% are Asian-American/Pacific Islander; and 0.67% are American Indian or Alaska Native. See https://about.usps.com/strategic-planning/cs09/CSPO_09_087.htm. The CWA’s Executive Board in 2020 committed “to creating dedicated spaces for open dialogue on race, so that members and leaders can determine outcomes and clear steps the union must take to fight racism in the union, within the industries we represent, and the community at-large.” See <https://cwa-union.org/cwa-news/building-anti-racist-union>; [The U.S. IRS has also taken substantive steps towards greater equal employment opportunities within the IRS. https://www.irs.gov/pub/irs-pdf/p5465.pdf](https://www.irs.gov/pub/irs-pdf/p5465.pdf); MLB recently launched a Diversity Fellowship Program to demonstrate its promotion of Diversity and Inclusion <https://www.mlb.com/diversity-and-inclusion/fellowship-program/>.

²² As discussed further below, the mission of RCI Inc. is to increase the diversity, equity, and inclusion in the selection of arbitrators, mediators, and other ADR neutrals. It will do this by encouraging commitment to the RCI pledge and otherwise providing research and tools to support the selection of diverse neutrals. The RCI pledge:

set[s] as a goal to include at least 30% diverse neutrals (Black, Latinx, Indigenous, AAPI, other people of color, women, persons of differing sexual orientations and gender identities, and persons living

Agreements establishing Special Boards of Adjustment and Public Law Boards in accordance with Section (3) of the Railway Labor Act be amended where they provide for obtaining a list of neutrals from the National Mediation Board, to include a requirement that at least 30% of the names on such a list be composed of members from communities generally recognized as under-represented. Amtrak describes its commitment to the pursuit of diversity as going beyond its workforce, to its business practices and initiatives as well. According to Amtrak, this “demonstrate[s] our respect for each other, our aim to recognize and celebrate our multicultural, multigenerational, and diverse workplace by creating a culture of ‘inclusion and a sense of belonging,’ and our commitment to ‘excel together’.”

28. In December 2021, the board of the National Rural Letter Carriers’ Association, one of the four major Postal Service unions with a membership of 130,000, voted unanimously to take the Ray Corollary Initiative pledge (note 22, *supra*), committing to a requirement that at least 30% of the names on such a list be composed of members from communities generally recognized as under-represented.

29. In addition, the New York State Bar Association Labor and Employment Law Section, in its Diversity and Inclusion Plan, “[urged] the Section to partner with other organizations that have similar plans/programs to enhance diversity and inclusion in the area of labor and employment law such as the National Academy of Arbitrator’s Ray Corollary Initiative.”²³

30. Based on such strategic programs and initiatives, the NAA is currently being outpaced by prominent industry partners regarding the integration of DEIB within business practices.

with disabilities) as candidates on any list (three or more) from which the mediators or arbitrators for a given matter are ultimately selected and will ask our outside law firms and counterparties to do the same. To further drive accountability and transparency, we also will track the selection of diverse neutrals chosen in our matters, including asking our outside counsel to track the selection of diverse neutrals across all matters for which they represent us.”

²³ See 2021 NYSBLELS Diversity and Inclusion Plan (Jan. 5, 2021).

B. The Ability to Adapt

31. To build and sustain a dynamic organization requires individuals with a range of backgrounds, experiences and identities to assist the NAA to effectively adapt to industry changes and needs. Such adaptation is typically fostered in diverse workgroups that help to influence and accelerate organizational evolution. In this way, the NAA can improve its business practices and effectiveness through its demonstrated commitment to diversity and inclusion.

C. The Elimination of “Blind Spots” and “Echo Chambers”

32. Diversity and inclusion can eliminate organizational “blind spots” and self-reinforcing “echo chambers” by providing a wide spectrum of opinions to assist in navigating organizational issues and addressing emerging best professional practices and opportunities. Thus, diversity and inclusion can:

- a. enhance NAA’s institutional market intelligence;
- b. cultivate an organizational culture that mirrors and aptly responds to the needs of its served community; and
- c. better position NAA to seize non-traditional dispute-resolution opportunities offered by existing and emerging systems, institutions, procedures, social relations, or infrastructures.

D. NAA’s Advancement in the International Arbitration/ADR Market

33. International arbitration has experienced unprecedented growth over the past 10 years. It is projected that approximately 90% of all international contracts will include arbitration agreements. Such agreements may include provisions that create special mechanisms to address workplace and labor disputes, arising from commercial and international trade agreements. However, except for the “USMCA-CUSMA-T-Mec”, the NAA has established only a small footprint in this market. By aligning and extending membership to a diverse cadre of neutrals representing emerging markets, the NAA will advance its presence and services in the international market. Specifically, a diverse membership base can help to position the NAA in modernizing its

business model and realizing emerging business opportunities by expanding its service market.

CURRENT ACADEMY INTERNAL EQUITY INITIATIVES

A. Introduction

34. Currently the Academy has two primary initiatives for achieving greater equity: the inward facing Outreach Committee (including the Salons); established in 2016; and the outward facing standards of the Ray Corollary Initiative, an independent body whose standards were adopted by the Academy in 2019.

35. From the explanation that follows, the DEIB Committee recommends that both initiatives continue to be nurtured, advertised, and supported. Additionally, the Committee strongly recommends that NAA bodies engaged in outreach to outside individuals or organizations be intentional in including those which are representative of diverse and/or historically underrepresented groups.

B. Academy Admission

36. Over the years, admission to the Academy has changed to reflect the reality of the constantly evolving workplace and the nature of labor-management arbitration. Those changes have allowed admission to the Academy to embrace employment as well as traditional labor-management arbitration. A similar spirit of inclusion should apply to the need to ensure that the Academy better reflects the diversity of the current workplace. The Committee recommends that the implementation of this Plan includes the principles of diversity, equity, and inclusion in admitting and embracing new members into the Academy.

C. The Outreach Committee

37. At a high level, the Outreach Committee has focused on expanding the pipeline of individuals into arbitration by mentoring and training new or “newer” (pre- or non-NAA) arbitrators at a regional level (collectively, herein out, “new arbitrators”). This initiative enables new arbitrators to expand their

contacts, experience, and confidence to advance their careers. Expanding the pipeline also includes cultivating relationships and mentoring those who have not yet decided to start their careers as arbitrators. We have seen successful engagement in the efforts of the Southwest/Rockies region and early mentoring is a critical component of a proposal for an Onboarding Committee. All of these efforts form a crucial foundation of creating a more diverse field of arbitration.

38. The NAA's outreach efforts are intended to be sensitive to regional differences. Rather than a central, top-down approach, initiatives are driven by local experienced NAA arbitrators – pursuant to their obligation under the Code of Professional Responsibility – to mentor new arbitrators. An essential piece of the effort is to find ways to connect promising new arbitrators with the advocates who could appoint them. The Outreach Committee was created from NAA members around the country that coordinates the effort. The committee is composed of individuals who mentor and train on a regular basis, both individually and collectively, and share ideas.

39. As an outgrowth of the Outreach Committee, in 2018, Homer La Rue proposed the utilization of the “Salon model”, in line with the Salons of the past, as initially conceived by Eva Robins and Peter Sykes and continued with conveners such as Dick Adelman and Carol Wittenberg. The purpose of the Salon is for established arbitrators to invite into their homes promising arbitrators who are sufficiently advanced in their careers as to be considering application to the NAA. There they can discuss their practices in a confidential safe space. Additionally, the experienced arbitrator leaders or convenors can introduce them to advocates, invite them to NAA meetings, and generally assist them in developing their practices. This Salon model was reinvigorated with success and impact in the DMV (D.C., Maryland, and Virginia)/Mid-Atlantic Region.

40. The Outreach Committee has suggested the following goals for Salons in

particular: to identify, guide, and train promising neutral arbitrators for further professional development with an eye to eventual NAA application; to obtain the participation and buy-in of labor-management advocates and Appointing Agencies, to permit or facilitate Salon members' shadowing opportunities with experienced NAA members; and to obtain the participation of experienced NAA members who are willing to act as mentors and assist a mentee.

The suggested agenda for each meeting is to explore a pre-designated topic, e.g., integrity (ethical issues), expertise (contract language interpretation, discipline, best practices in drafting decisions, hearing practices), and acceptability (panel membership, presentations, writing for publication, involvement in associations), as well as the business of arbitration (practice management). The cohort has an opportunity to learn from the Salon conveners, from invited guest speakers, and from each other. In practice, the participants themselves drive the discussion, and talk of those topics that interest them.

D. The DMV/Mid-Atlantic Salon Model

41. The first Salon created under the Outreach Committee in 2018 was the DMV (D.C., Maryland, and Virginia)/Mid-Atlantic Salon, which currently continues with NAA members Homer La Rue, Margie Brogan, Andrew Strongin, and Walt De Treux as the leaders or conveners. This original Salon was composed of eight (8) newer arbitrators, also known as cohorts. It met every other month, alternating between the AAA Philadelphia office and Howard University School of Law. Of the eight individuals, six have gained membership into the NAA and are already active. The current NAA members include John Woods, a member of the Committee; Sara Espinosa, a member of the RCI committee; and Keith Greenberg, a member of the Board of Governors, in part due to his excellent work for the Videoconference Task Force.

42. A second seven-person cohort began in 2020 and is composed of five individuals of color (four individuals who identify as Black, one individual who

identifies as Asian-American) and two individuals who identify as white. Of the seven, four are women.

43. Prior to the pandemic, the Salon leaders invited the cohort to national and regional NAA meetings, introduced them to advocates, and secured them speaking engagements, including one AAA day-long program where all cohort members were speakers.

44. Post-pandemic, the Salon leaders combined the two Salon groups and had the meetings via Zoom. Most of the original Salon members enthusiastically continued to participate. Plans include having AAA Vice-President Ken Egger and an advocate meet and greet the newer cohort to give them exposure.

45. The beauty of the Salon model is that the participants learn not just from the instructors but from each other, and NAA mentors are able to fully evaluate the mentees and recommend them to advocates based upon their strengths. The Salon convenors are also able to let those of the first Salon lead discussions in the newer, second Salon.

46. The feedback from advocates has been very positive.

E. Other Regional Outreach Efforts

47. In part because of the success of the initial Salon under the Outreach initiative, and the publicity of that success, similar Salons have grown up around the country: Southern California Region led by Chris Cameron, member of the Committee; Northern California Region, led by Claude Ames, Andrea Dooley and Barry Winograd; Northwest Region led by Howell Lankford.

48. Salons are being created or rejuvenated now: in New England by Sheila Mayberry, a member of the DEIB Committee, and NAA Member Bonnie McSpirtt; in the New York/New Jersey Region 2 by Randi Lowitt, a member of the DEIB Committee, Melissa Biren and Dan Brent; and in the Ohio/Kentucky region by NAA members Tom Nowel, Dan Zeiser, Mitch Goldberg and Greg Szuter (this is an expansion from the prior Salon run by

Tom Nowel).

49. Another regional initiative has been that of the Southwest/Rockies (SWR) Region.²⁴ Beber Helburn and Pilar Vaile (respectively, prior and current members of the DEIB Committee), led a relatively large and robust Zoom group with participants not just from their very large region, but from across the country, from mid-2020 through the end of 2021. The SWR's outreach efforts differ significantly from the Salon model described above because it is open to any individual interested in or trying to break into labor or employment arbitration. Participants include recent retirees from unlicensed advocacy or Agency work who have never conducted an arbitration; experienced labor and employment lawyers who are seeking to expand or have expanded into neutral work; and dedicated neutral ADR professionals who anticipate applying to the Academy within one or several years. As a result of its composition, this outreach effort may provide a model for a pathway for those who are very new to labor arbitration or are considering such a practice. The convenors made particular effort to identify and invite African American labor and employment arbitrators or hopefuls, from within and from without the Region.²⁵

50. This larger and more eclectic group model works for the large and diffuse Southwest/Rockies Region. Content-wise, however, it looked much like that of the DMV/Mid-Atlantic Salon Model, covering the following topics and others in a series of monthly Zoom sessions: nuts and bolts of arbitration; developing an arbitration practice; "what gets you hired, what gets you fired"; unique issues in the Postal Sector; evidence for arbitrators; a presentation by AAA, FMCS and NMB representatives regarding Agency admission and performance standards; several special guest speakers such as NAA Members and luminaries Arnold Zack, Betsy Wesman, and Barry Simon; and a presentation

²⁴ To make clear the distinction between the outreach to *newer*, but not new arbitrators, the Outreach Committee has referred to the DMV/Mid-Atlantic kind of outreach as a *Salon*, while the outreach to new arbitrators is informally referred to as a *Pathway Group*.

²⁵ A significant number of these participants – who ranged from not having yet conducted an arbitration to having served as arbitrator hundreds of times over multiple decades but never quite reaching ten per year – were more likely to be licensed attorneys who are unable and/or unwilling to give up the practice of law in the ephemeral hope of one day being admitted to the National Academy of Arbitrators.

from NAA Members Lise Gelernter and Douglas Bonney on the constitutional issues raised by vaccine mandates. Additionally, Pilar Vaile hosted weekly “hands on” Zoom or WebEx sessions throughout 2020 and 2021, to familiarize new, newer, and established arbitrators with emerging practices and protocols for the conduct of video hearings.

51. In addition to its more recent outreach efforts, the Southwest/Rockies Region has a long-running and very well attended annual conference, the first day of which is devoted to arbitrator or advocate development and training (there are two simultaneous tracks each year). Over the years, the Region’s members have developed and sustained a culture of providing continued support and mentorship to new arbitrators and to encourage and assist them, when ready, in applying to the Academy. Consideration is also being given to mentoring on a smaller, more local and/or voluntary scale, and several SWR members have taken on the mentor mantle upon request of Regional leadership, including with new arbitrators from underrepresented groups.

52. Other Regions have also demonstrated their commitment to outreach. Since 2020, the Southern California Region has held at least four Salons per year chaired by former Academy president Sara Adler. The cohort consists of five new and prospective arbitrators, including two individuals who identify as African American and one who identifies as being of Middle Eastern descent. Topics covered have included: getting started as an arbitrator; decision-writing; mediation and settlement; and remedies.

53. The NAA’s New England Region has partnered with the University of Rhode Island since 2017 to offer annual programming at the Labor Arbitration Conference. Hundreds of advocates and neutrals have participated over the years and many have approached the Region to participate in its activities. The Region also hosts the Art and Practice of Labor Arbitration on a monthly basis and encourages non-NAA member participation. It is also creating its own DEIB programming for regional members. It also offered mock hearing activities for non-NAA arbitrators during the height of the pandemic and will continue to do so through as it identifies those interested in starting their arbitration practice.

54. Among the issues being considered by the Outreach Committee is whether pathway groups can include advocates who have not yet made the leap to arbitration. For instance, Tom Nowel, a member of the Outreach committee from Ohio, has consulted with a public sector advocate who is nearing retirement, and who would make a promising arbitrator. The Southwest/Rockies Region has also discussed the inclusion of advocates who are contemplating entering the labor arbitration field, as well as those who have determined to enter the ADR field while also continuing some counsel or advocacy work related to labor and employment law.²⁶

55. The Outreach Committee believes that such individuals can be included in what it terms “Pathway Groups” so long as all members are aware of the individual’s employment status, and that the advocate is not involved in the selection of labor arbitrators. Their inclusion can be valuable to them in learning about the arbitration profession from the neutral viewpoint, while other participants can learn from their experience.

56. Based upon the experiences of our national and regional outreach initiatives, the consensus is that outreach cannot be a “one-size-fits all” idea, such as by following only the DMV/Mid-Atlantic Salon model focused on more

²⁶ While not prohibiting NAA outreach efforts from those who are still serving as advocates, care must be taken to manage carefully the expectations of such individuals who are contemplating entering the labor arbitration field. See Section 6. (Added by Amendment April 21, 1976), in pertinent part, reads: Pursuant to the membership policy adopted on April 21, 1976 and amended on May 24, 2008, the Academy deems it inconsistent with continued membership in the Academy: a) for any member who has been admitted to membership since April 21, 1976, to undertake thereafter to serve partisan interests as advocate or consultant for Labor or Management in labor management relations or to become associated with or to become a member of a firm which performs such advocate or consultant work; b) for any member who has been admitted to membership since May 24, 2008, to undertake thereafter to serve partisan interests as advocate or consultant for an employee or employer in any workplace dispute proceeding or to become associated with or to become a member of a firm which performs such advocate or consultant work; (Added by Amendment May 24, 2008.) c) for any member to appear, from and after April 21, 1976, in any partisan role before another Academy member serving as a neutral in a labor-relations arbitration or fact-finding proceeding. d) for any member to appear, from and after May 24, 2008, in any partisan role before another Academy member serving as a neutral in any other workplace dispute proceedings. (Added by Amendment May 24, 2008.) See NAA Const., Article VI, p. 10, 13.

imminent NAA membership, or the Southwest/Rockies model of mass and largely undifferentiated outreach. Other mentoring models should be encouraged, in the search for ones that are a better fit for each region. The Academy's goal, in any case, should be to effectively communicate to new arbitrators – and particularly those in equity-seeking groups – that we will find them a mentoring home if they are interested in such help.²⁷

F. Results of Regional Outreach Efforts

57. A by-product of Regional outreach has been an enhancement to the image of the NAA in the labour relations community, showing that NAA members assist those with less experience to help them succeed in this profession.

58. The principal benefit of the Salon experience thus far has been to aid several arbitrators to advance their practices and to develop their expertise as arbitrators, and in many cases gain admission to the Academy. There is also a notable presence of those from equity groups among these promising arbitrators. The Salon work has therefore helped to advance the aims that inform the work of the DEIB Committee.

²⁷ The Special Committee envisions a journey to an arbitration career that may begin in some cases with consideration of either a part-time or full-time career and end with membership in the Academy. Along the way, interested individuals will need to learn how to be a labor, and possibly employment, arbitrator; qualify for inclusion on such arbitration rosters as FMCS, AAA, NMB and relevant state rosters; and grow their practices. The form and function of Academy support may change at each stage of the journey and may overlap. Pre-mentoring includes consultation with an aspiring arbitrator pondering the decision to embark on this career about the advantages and disadvantages of the profession and about critical resources, both in terms of publications and training such as the FMCS Becoming A Labor Arbitrator (BALA) course. Mentoring, particularly in a Pathway Group, might involve providing opportunities to observe hearings and write the two shadow awards necessary for FMCS application for those who have completed the BALA course and have continued availability while beginning to hear their own cases. Mentoring may continue for those more experienced who are advancing toward possible Academy membership, supplemented by inclusion in a Salon. Two caveats are important. The Special Committee acknowledges that there is no one-size-fits-all model, as noted above. And, while there is no suggestion whatsoever to exclude any aspiring arbitrator from Academy support, it is critical to the Strategic Plan to reach out and include aspiring arbitrators from equity seeking groups that experience shows have additional barriers to entry and advancement in the profession.

59. The outreach efforts of the Southwest/Rockies region demonstrate the value of reaching groups that are both geographically and professionally dispersed. Engagement of individuals from a variety of backgrounds is crucial for diversifying the industry. The strategy of long-term support, skills-building, and cultivation of interest among a wide body of labor and employment ADR practitioners will bear fruit over time.

60. All of our outreach initiatives – whether at the national, regional, or individual level – represent an important effort towards the achievement of the objectives of greater equity, inclusion, belonging, and diversity within the NAA. This work needs to continue and be expanded, with suitable coordination and support by the Outreach Committee.

THE ACADEMY’S OUT-FACING DEIB INITIATIVE: THE RAY COROLLARY INITIATIVE (RCI)

61. Conceived in 2019 and incubated within the NAA pursuant to vote by the Academy’s Board of Governors, and thereafter trademarked and separately incorporated, the mission of the Ray Corollary Initiative (RCI) is to increase diversity, equity, and inclusion in the selection of arbitrators, mediators, and other ADR neutrals. The RCI was proposed to address the severe lack of diversity²⁸ in the selection of arbitrators and mediators in labor and employment disputes, and also in the entire practice of Alternative Dispute Resolution.²⁹ Named after the first Black woman to be admitted to the practice of law in the United States, Charlotte Ray, RCI takes a research-backed and data-driven approach to achieving greater diversity.³⁰

²⁸ ABA Dispute Resolution Section ABA Resolution 105 Report to the ABA House of Delegates (Resolution 105 Report)
<https://www.leehornberger.com/files/ABA%20105%20ADOPTED%20August%202018.pdf>.

²⁹ For alternative suggestions on increasing arbitrator diversity, see *Arbitrator Diversity: Can It Be Achieved?*, Sarah Rudolph Cole, Washington University Law Review, Volume 98 Issue 3, https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=6514&context=law_lawreview.

³⁰ For an explanation of the concept underlying the RCI and the relationship of RCI to the Academy, see The Ray Corollary Initiative: An Explainer, <https://youtu.be/45wbucDDTFs>.

62. RCI was modelled after the legal field’s Mansfield Rule,³¹ a project that began in 2017 to increase diversity among leadership positions in law firms, now in place across 200+ medium and larger law firms and legal departments in the US, Canada, and the UK.

63. The concept that RCI endorses for achieving diversity is this: that the slate of candidates for arbitration, mediation, and other ADR-neutral selection at least 30% candidates from underrepresented backgrounds in the field. This is the same standard of the first iteration of Mansfield Rule certification.

64. The empirical research shows that when at least 30% of a slate of candidates for selection is diverse, the statistical chance of selecting a candidate from an underrepresented background is disproportionately higher.³² The converse is also true: when less than 30% of the slate is diverse, the odds of selecting a candidate from an underrepresented background diminishes to near-zero. These are key findings that inform the RCI.

65. There are many factors that influence the under-representation of individuals from equity seeking groups³³ who seek to become neutrals. Similarly, there are several factors that may account for those persons being disproportionately not selected in comparison to white males, once those persons become neutrals. One of those factors may be unconscious bias in the selection process, which the broader pool of candidates addresses.

66. In 2019, then-President Barry Winograd supported the proposal of the *Ray Corollary Initiative* as a response to the lack of diversity in the selection of arbitrators and mediators. The approval of that support for the RCI by the Board of Governors

³¹ The Mansfield Rule was conceived during the 2016 Women in Law Hackathon, an event hosted by Diversity Lab (and supported by Stanford Law School and Bloomberg Law). The Rule is named after the first American woman admitted into the legal profession in 1869, Arabella Mansfield. See Diversity Lab <https://www.diversitylab.com/hackathons/>.

³³ As used in the context of the RCI, the term “individuals from underrepresented backgrounds” is defined as Black, Latinx, Indigenous, AAPI, other people of color, women, persons of differing sexual orientations and gender identities, and persons living with disabilities. This definition is consistent with that used in the Resolution 105 Report when citing Goal IX of the ABA Mission and Goals. Goal IX was amended “to promote the full participation in the profession by minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities. *Id.*”

(“Board”) included a directive that there be established an Academy Organizing Committee (“AOC”) to convene stakeholders in labor-management, employment, and commercial disputes to address the lack of diversity in the selection of ADR neutrals. The *Ray Corollary Initiative (RCI)* was approved by the Board on November 10, 2019. The charge to the AOC, also approved by the Board of Governors, included the following: “[t]he NAA wishes to continue its ongoing commitment to diversity and inclusion in the selection of diverse arbitrators and mediators by the establishment of an Organizing Committee to promote the *Ray Corollary Initiative*TM.”³⁴

67. The Academy Organizing Committee was charged to establish a National Task Force (“Task Force”) of organizations and persons from the labor-management and employment community to implement the RCI as a national effort by the ADR community to address the issue of diversity and inclusion in the selection of arbitrators and mediators in labor-management, employment, and commercial disputes. The RCI evolved into and became an independent 501(c)(3) corporation, RCI, Inc.

68. In October 2021, RCI, Inc was created as a separate non-profit legal entity. The RCI as a concept is in its infancy and requires regular attention and promotion to evolve into the national standard envisioned by Homer La Rue and Alan Symonette³⁵ and endorsed by the BOG of the National Academy. An independent entity was needed in order to implement the RCI vision³⁶ and oversee the project,

³⁴ See *Ray Corollary Initiative Report to the BOG*, October 8, 2020 as Amended October 9, 2020.

³⁵ See Homer C. La Rue and Alan A. Symonette, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection*, 63-2 HOW. L.J. 215, 239-40 (2020). The RCI envisions the creation of a national task force that would require the collaboration of the ABA, provider organizations, lawyers who select arbitrators, and entities who hire such lawyers to develop and implement a plan that would require consideration of candidates from underrepresented populations before making a final arbitrator selection in labor and employment matters. In recognition of the key role of provider organizations in maintaining rosters of qualified arbitrators, at least one scholar has suggested permitting these organizations to assign arbitrators of color at random when the parties cannot agree on selection. See Michael Z. Green, *Arbitrarily Selecting Black Arbitrators*, 88 Fordham L. Rev. 2255, 2278-85 (2020).

³⁶ the prototype for such an organizational structure is Diversity Lab, which oversees the *Mansfield Rule Initiative* which began in June 2017 (note 31, above) Diversity Lab initially partnered with 102 law firms, securing the commitment of those to become *Mansfield Certified*. To do so, those firms committed to considering:

at least 30% diverse lawyers for all governance and leadership roles. This means that these firms have “... affirmatively considered at least 30% women, attorneys of color, LGBTQ+ and lawyers with disabilities ... for equity partner promotions, formal client-pitch opportunities and senior lateral

provide education to the participants, be a depository for the necessary data collection, and provide the conduit for the participants to share data and experiences anticipated by the RCI requirement for transparency.

69. Like the Mansfield Rule, the success of the RCI pledge would be in the commitment to the brand of RCI and NAA support. To that end, the term and phrase “RCI” and “Ray Corollary Initiative,” respectively were trademarked. The trademark is held by the non-profit RCI, Inc.³⁷ and its website is located at <https://www.raycorollaryinitiative.org>.

70. The RCI is a project that has, since its inception, been nurtured and supported by the Academy, but not operated by the Academy, to address the lack of diversity in the selection of arbitrators in labor-management and employment matters. The NAA and the RCI have separate organizational structures, each with their own Executives. The RCI is the active agent to achieve the objectives of the RCI. The RCI pledge and standards represent best practices, and the NAA fully supports the RCI initiative.

71. Furthermore, the NAA will continue to liaise with the RCI Inc. so that the NAA is kept aware of progress in achieving the objectives of the RCI. Such support for the RCI does not preclude the NAA from supporting other worthy initiatives that promote diversity in the selection of arbitrators. For example, the Academy is currently in discussions with Cornell University regarding arbitrator diversity. The Academy should continue to communicate with the AAA, FMCS, and ABA on this issue.

72. The impact of the RCI will be evaluated by exploration and analysis of the effect of the equitable selection of candidates from strike-lists, rostering agencies, pre-arbitration dispute rosters selected by the parties in collective bargaining, and the selection of arbitrators and mediators in employment matters.

positions.

See 63-2 HOW. L.J. at 238.

³⁷ On March 2, 2022, the trademark was transferred from the initial holder, Homer C. La Rue, to RCI, Inc.

RECOMMENDATIONS

A. Introduction

73. Thus far this Report has described the Academy's existing commitments and initiatives. The recommendations that follow are intended to suggest additional initiatives, and structures for the proper implementation of a coherent DEIB strategy.

74. The Committee recommends several specific initiatives to improve equity, inclusion, belonging and diversity. It also recommends a staged approach to these initiatives. The stages will need to be developed by those charged with implementation of the Plan adopted by the Academy.

75. In addition to the existing initiatives (Outreach and the RCI), the following should be undertaken.

B. Education of Academy Members

76. The initial primary focus should be the education and skills-building of Academy members on questions of diversity, equity, inclusion, and belonging.

77. Building inclusion and a sense of belonging within the Academy as a place for all members requires the efforts of all members. We will not achieve true diversity, inclusion, equity, and belonging if this is an effort of some members for some members.

78. Equity education that focuses on emotional intelligence (particularly empathy), bystander intervention and accountability, and other skills-building professional development will support a culture of inclusion for all.³⁸

79. Race was historically developed to create hierarchies of value. The current racial disparity in our societies is the result of policies and practices

³⁸See Francesca Gino et al., *Unconscious Bias Training That Works*, Harvard Business Review (2021), located at <https://hbr.org/2021/09/unconscious-bias-training-that-works>.

that underpinned these hierarchies. They engendered racial attitudes in traditions, beliefs, opinions, and myths that are ingrained in each group's cultural paradigm. Where such traditions, beliefs, opinions, and myths have been practiced and sustained for a long time, they are implicitly understood to be normal behavioral practices. Such institutional customs have the effect of marginalizing and diminishing the human worth of our colleagues of color, women, and individuals from underrepresented backgrounds.

80. Also, to create a sense of belonging among NAA members, they need to feel comfortable to participate fully in the organization, and to have their voices heard. To these ends, steps should be taken: to educate members on psychological safety and trust building, and the role that all members play in the creation of a healthy culture of inclusion within the Academy; to create spaces in which individuals can have frank and candid discussions to address challenges in addressing issues of inclusion and exclusion, such as microaggressions³⁹ and implicit biases that affect treatment and perceptions of others; and to provide the education on the best leadership practices of inclusion.⁴⁰

³⁹ See, for example, <https://sph.umn.edu/site/docs/hewg/microaggressions.pdf>.

⁴⁰ See Juliet Bourke et al., *The Key to Inclusive Leadership*, Harvard Business Review (2020), located at <https://hbr.org/2020/03/the-key-to-inclusive-leadership>; and Salwa Rahim-Dillard, *How Inclusive Is Your Leadership?* Harvard Business Review (2021), located at <https://hbr.org/2021/04/how-inclusive-is-your-leadership>. There are several resources on unconscious bias available for use, including the U.S. Department of Justice's *Dialog on Race*, located at <https://www.justice.gov/crs/our-work/facilitation/dialogue-on-race>; and, from The National Center for State Courts (NCSC), *The Evolving Science on Implicit Bias: An Updated Resource for the State Court Community*, Jennifer Elk and Andrea Miller, located at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911_March_2021. The NCSC can provide education on implicit bias. It uses a combination of written materials, videos, resource websites, Implicit Association Tests, and online lectures from subject-matter experts. Questionnaires completed before and after each educational intervention provide an indication of program effectiveness. See <http://faculty.washington.edu/agg/pdf/Kang&al.ImplicitBias.UCLALawRev.2012.pdf>, citing Pamela M. Casey et al., Nat'l Ctr. For State Courts, *Helping Courts Address Implicit Bias: Resources for Education* (2012), available at <http://www.ncsc.org/IBReport>. See also ABA - 21-day Racial Equity Habit Building Challenge, located at https://www.americanbar.org/groups/diversity/resources/equal_opportunity/, the syllabus for which is found at <https://docs.google.com/document/d/1uctlluDqgvu4Qhi2SJ1yPtpDe8HoEzN->

81. Equity education should be a regular feature of Academy meetings. Alternatively, or in addition, such education should be undertaken by the Continuing Education Committee in the periods between meetings. This should be ongoing and refresher education. Use should be made of suitable experts, perhaps by seeking funding for honoraria from the REF. All Academy members should be strongly urged to take such education and consideration should be given as to how this might be accomplished. The purpose of such education is to manage bias and craft an anti-racist agenda for the Academy. Consideration should also be given to:

- a. Whether some form of accreditation, incentive, acknowledgement, or certification should be given for attending such training.
- b. Whether such education should be required of new members of the Academy.
- c. How ongoing equity refresher education should be maintained within the Academy.

82. There ought also to be information and education offered to the Academy membership of how they can become involved in the various initiatives proposed in this Report. Members should be kept up to date of developments towards greater diversity within the Academy.

83. In addition to offering regular DEIB education to members of the Academy and other arbitrators who participate in the regional meetings (such as occurred when the VTF gave training to NAA members), there ought to be

[DGji150E8Oc/edit#heading=h.z9jpsm6si21m; and](https://cdn.ymaws.com/www.naswnyc.org/resource/resmgr/currents/2020/MPG_Full_Article_-_Summer202.pdf)

Becoming an Anti-Racist Organization: An Anti-Racist Model for Organizational Change, located at https://cdn.ymaws.com/www.naswnyc.org/resource/resmgr/currents/2020/MPG_Full_Article_-_Summer202.pdf. The ADR Inclusion Network is developing a Diversity Speakers' Bureau. The purpose of the ADR Inclusion Network's Diversity Speakers Bureau is to provide a list of talented professionals who are ready, willing, and able to speak and train on a variety of Alternative Dispute Resolution topics, and who self-identify as a member of a historically underrepresented community, including but not limited to: a person of color, a member of the 2SLGBTQAI+ community, as having a disability, or identify as a woman. These are all resources that the Academy can consider for the education of Academy members on these issues.

the same or similar education offered to users of the services of Academy members, i.e., the labor-management and employment law practitioners who appear in arbitration hearings and who make selections of arbitrators. This education should be done under the auspices of the NAA.

C. Academy DEIB Leadership Within the Labour and Employment Relations Community

84. The Committee believes that the Academy should be a leader, promoting the values of DEIB, within the labour and employment relations community. Part of this leadership will be to create the proper messaging of our shared goal to promote diversity, equity, inclusion and belonging and to build collaborative relationships with agencies and the appointing parties to promote the values of DEIB.

85. An NAA member⁴¹ suggests that the Academy can hold educational workshops for non-profit organizations (e.g., on cultural diversity) in collaboration with other groups involving unions, management organizations, law schools and graduate schools. The arrangements could include collaboration with the American Bar Association and state and local bar associations (especially those affiliated and established by minorities and gender-related groups), the American Arbitration Association, the College of Labor and Employment Lawyers, the Labor and Employment Relations Association, the Federal Mediation and Conciliation Service, National Mediation Board, Equal Employment Opportunity Commission, and state and local civil and human rights agencies. The workshops can include federal and state court-annexed expedited litigation arbitration panels, including neutrals arbitrating and mediating state and municipal civil service disputes.

86. Consideration should be given to convening a Diversity, Equity, and Inclusion Summit, in concert with stakeholders, to review progress within the Academy and to deepen understanding of the DEIB issues. This could be done

⁴¹ NAA member Charles Fischbach is former Commissioner of Human Relations for the City of Chicago.

as an adjunct to an annual meeting, or separately.

87. Mentoring is discussed more fully below. If mentoring with the goal of greater diversity becomes a more prominent feature of the role of Academy members, as part of the DEIB initiative, the Academy should inform the labour-management and employment law community that the parties may expect to be asked by Academy arbitrators to have mentees attend hearings, shadowing the arbitrator, so that the mentee gains valuable experience at hearings, subject to the confidentiality of the process.

D. Data and Review

88. Consideration should be given to having suitably drafted, individually confidential, self-identification surveys (with an opt-out option) conducted periodically by the NAA of Academy members. Equity advice needs to be obtained as to how to proceed with such surveys in an appropriate manner and to collect only such data as is necessary for practical implementation. There will need to be controlled collation procedures to ensure confidentiality in gathering this data. The appropriate distribution of the data among NAA members is a matter for careful consideration.

89. The purpose of such surveys is to extract relevant information to appreciate the equity composition of the Academy's membership more accurately. The survey could also address issues of inclusion and belonging, and what can be done to improve both. The information obtained will be a guide for those implementing the Academy's diversity plans to understand their targets, what needs to be done to improve DEIB initiatives, and the progress being made.

90. The Academy should promote research (potentially funded through the REF) to provide greater clarity as to what initiatives can best achieve the overall objectives of DEIB.

91. For the Academy to be able to measure success towards greater DEIB, it needs reliable metrics against which to compare the data it gathers on the diversity of its members. The US Census Bureau and the Statistics Canada

keep accurate data on populations, on population changes, and on the representation of equity seeking groups, occupationally and on other metrics. The Strategic Plan must include the gathering and collating of relevant data to enable the NAA to set reasonable diversity goals for its membership composition. To set reasonable threshold goals for measuring the Academy's success in achieving DEIB, the DEIB Coordinating Committee will need to determine what data, for what purposes, will be collected and monitored. The first step in the data collection process will be to assess the current availability of arbitrators from equity seeking groups. Thereafter, accurate collection and review of data will also be needed to monitor the success of initiatives taken by the NAA to advance DEIB.

92. All DEIB initiatives taken by the Academy should be made subject to a periodic review and analysis: What is the relevant data that informs the initiative? What data needs to be obtained to be confident of making a sensible choice? How has the initiative worked? Has the initiative achieved the objectives of DEIB? What are its pros and cons? What changes should be made? Such a review of each of the initiatives should be undertaken at defined intervals.

**E. Equity Focus on Early Mentorship in the First Phase—
From Other Practice to Arbitration**

93. The Committee finds that there are barriers in the transition from other professional practice to becoming an arbitrator that impact particularly on equity seeking groups, especially persons of colour.⁴² Much of the work of the Outreach Committee to date has been principally focused on more established arbitrators, with only a nascent focus on those who are very new or considering entry into the profession.

⁴² A submission received suggested that rostering agencies (e.g., AAA, FMCS) should consider relaxing for a time the neutrality rule so as to enable practitioners to arbitrate labor-management disputes, as a means of transitioning from legal practice to arbitration. The Board of Governors, in 2019, authorized the President to advise the AAA of the Academy's opposition to relaxing the neutrality rule regarding labor-management disputes. Following that communication a subsequent meeting was held with the AAA.

94. To address these barriers, there ought also to be focus on those at an earlier stage in the process of becoming arbitrators, viz. those who are thinking about becoming arbitrators, but are still in some other professional capacity, as counsel, or human resources managers, or union representatives, or employed in a labour relations agency.

95. The impediments identified by the Committee for entry into the arbitration profession for persons of colour and other under-represented groups, include the following:

- The implicit bias of advocates against choosing arbitrators of color, or from other equity seeking groups.
- The lack of mentoring opportunities and other forms of training by NAA members.
- The lack of networking opportunities with advocates and other stakeholders.
- The lack of financial resources / income to be able to transition into the arbitration field.
- The lack of willingness among parties to understand and address their implicit biases.
- The institutional and systemic structure and operation of organizations and agencies that reinforce implicit biases against entry into the profession, however unintentional.

96. The Academy should establish a mechanism, likely through a committee akin to the Outreach Committee, perhaps named the Onboarding Committee, under dedicated leadership like the Outreach Committee, for confidential, protected contact with those in the early stages of becoming an arbitrator.

97. Those from equity seeking groups, particularly persons of colour, should be given priority in the selection of candidates for mentoring by the Onboarding Committee.

98. Just as the Salons have been successful because those arbitrators of a similar stage in their careers have been able to share their experiences and

learn from each other, it may be beneficial for those at the earlier career stages to be in a similar, separate cohort, to be able to share their common experiences and concerns. (Alternately, all may benefit from working in larger, more experientially mixed groups, as seen with the SWR model.)

99. An Onboarding Committee should work closely with the Outreach Committee because many lessons can be learned from the errors and successes of that Committee's initiatives.

100. The target grouping for those who are very new or considering a career in arbitration are labor and employment attorneys and non-attorneys who have demonstrated interest and are in the stage of commencing or exploring a career as an arbitrator. The initiatives would be to identify individuals within this targeted population with a view to forming focus and/or interest groups. An Onboarding Committee will likely work closely with partner organizations (e.g., National Bar Association, Black Labor Caucus, Hispanic National Bar Association, Women's Bar Association, the National Employment Lawyers' Association (NELA), LERA, etc.).

101. The tasks could include:

- a. Developing events and opportunities for the targeted groups:
 - Meet-and-greet receptions of advocates; public / private sector labour relations agencies.
 - Confidential meetings for those not ready to leave their jobs to discuss possible avenues into the profession.
 - Business planning advice for those that will find it financially difficult to develop an arbitration practice between years 0-5
- b. Soliciting NAA members to actively participate in this work.
- c. Working to develop affiliated partnerships with various institutions / organizations as possible "feeder" entities.
- d. Setting annual goals for the committee.

- e. Writing funding proposals⁴³.
- f. Reporting of progress on a regular basis.

102. The contact with the target individuals needs to be carefully managed because some of those involved may still be employed by their organizations. The contact with this cohort subset is to enable them to explore whether they wish to make the leap to becoming arbitrators without prejudicing their existing obligations and employment.

103. There are also ethical issues in working with such a cohort. For example, like the rule applied in the Salons - no person who selects arbitrators should be included within an Onboarding Committee's cohort of mentees. Also, those still working within a corporation, trade union or law firm, or in any other employment, should be required to wholly separate their exploration of becoming an arbitrator from their regular work to avoid any potential conflicts of interest. There should be a clear separation of functions, confidences, and responsibilities so that there is no potential conflict of interest, nor any perceived conflict of interest. An Onboarding Committee would need to ensure that such arrangements were established.

⁴³ Submission of proposals from the NAA to the REF to fund programs, such as internships, work-study, and other programs that promote experience in the profession. These would include those intended to engage individuals or groups traditionally under-represented in the field of labor and employment arbitration. These proposals could include:

- Submission of proposals from the NAA to the REF to fund programs intended to address the financial needs of individuals with an interest in becoming labor arbitrators who have not yet made the transition/commitment. These could include development of academic courses or stand-alone workshops in the field of labor arbitration and employment dispute resolution.
- Encourage submission of proposals from NAA Regions or labor/employment arbitration entities (FMCS, AAA, USPS, other joint labor/management committees) to fund newer arbitrators (1 to 5 years) to attend NAA meetings; or to attend FMCS or AAA labor arbitrator development courses.
- Submission of proposals from the NAA to fund annual scholarships/writing competitions created and coordinated by academic institutions for students in labor relations programs (and other related programs) interested in the study of labor/employment dispute resolution processes. For example, a funding request by the NAA that could help fund the AAA's Higginbotham Fellowship Program and other such programs.
- Submission of proposals to fund a survey of unions/management advocates with respect to the selection of arbitrators of color, women, and underrepresented groups. The outcome may be useful to the RCI Committee, and to the AAA, FMCS, and other stakeholders, who need to serve their clientele.

104. The Salon and other mentoring models, under an Onboarding Committee, should be encouraged and supported on the regional level as an essential way to increase the number of diverse, talented individuals who might wish to become arbitrators.

105. The Committee recognizes that there are regional differences that need to be considered in developing outreach to new or potential arbitrators. An Onboarding Committee should work with the Regional Chairs to develop appropriate methods for reaching and contacting the target group of individuals in each region. Experience has shown that there is no “one size fits all” exemplar, as different Salon models have been employed successfully based on several factors, among them: geography, the way arbitrators are selected, the differences in labor arbitration practices, and the pool of experienced and newer arbitrators.

106. As with all facets of the DEIB Strategic Plan, in developing long-term mentorship arrangements, an Onboarding Committee or Regional initiatives should give particular consideration to those equity seeking or underrepresented mentee candidates and Academy member volunteers.

107. Consideration should be given, within the Academy’s policies, as to what assistance might be provided to the selected individuals in order to help them make the transition.

108. Part of an Onboarding Committee’s mandate might include an even more extensive outreach, among university and even high school students, of the role of labor and employment arbitration in dispute resolution, and how such a career can serve to advance industrial justice and equity. This could include the use of co-op programs to enable students to observe the arbitration process.

109. The application of the above initiatives in Canada will likely involve collaborating with the provincial arbitration organizations and engaging with the provincial and federal Ministries of Labour to ensure that the selection of

individuals for training as candidate arbitrators is done with due regard to the fair inclusion of those from equity seeking groups. Further, given how much working as an adjudicator of a provincial or the federal Labour Relations Board is a precursor to becoming an arbitrator in Canada, efforts should be made to encourage the appointment of suitable candidates as vice-chairs of the Boards from equity seeking groups.

**F. Equity Focus on Arbitrators Who Wish to Move
Towards Academy Membership**

110. The Outreach Committee, through the Salons and other Regional efforts described above, should also continue or develop an equity focus when working with more established arbitrators, including when guiding arbitrators towards Academy membership. These efforts should include maintenance and expansion of the mentorship opportunities for the individuals concerned, so that they may have confidential guidance from Academy members to assist them with their practices as arbitrators. While less substantive guidance may be desired over time, these relationships will continue to be highly beneficial for subsequent professional development or even application to the Academy (such as in obtaining introductions or letters of recommendation).

111. In recognizing regional differences, the Academy should be aware that the effort of encouraging greater diversity within the Academy's membership is not consistent or uniform across the regions. So, while regional differences ought to be considered in the way in which DEIB is promoted, the effort to achieve the purposes of DEIB should be uniformly applied across all regions.

112. At the regional level consideration can be given to informal drop-in sessions for NAA members and new arbitrators to discuss topics of interest such as New England's "How Would You Rule?" sessions.

113. Part of the monitoring of the DEIB implementation will be to review Salon and other initiatives in all regions.

G. Mentorship

114. Mentorship is a key feature of outreach, and for the Salon model in particular. It should also be a key feature of the work of an Onboarding Committee and other early mentoring efforts. Some additional comments are apposite, though, regarding mentorship.

115. Mentorship can be of a general nature and diffuse within a committee, but it may be of special value if it is formalized to a degree between the mentor or mentors and the mentee: How long will it last? What are the expectations of each of them? How often will they meet and talk? What is the scope of the mentorship? In other words, what will the mentor do for the mentee, for example, permitting shadowing at hearings and/or when meeting with the parties, providing advice, reviewing draft decisions, etc.?

116. It is extremely valuable for a new arbitrator to have the guidance and support of one or more experienced, established arbitrators. The relative ease and informality of a comfortable mentoring relationship is extremely effective for improving the quality of a new arbitrator's work and of their professional behaviour and practice.

117. In the Salons and other outreach, careful attention should be paid to what mentorship is sought by the potential mentee, and as to who among the Academy members might be able to commit to playing the necessary supportive role.

118. Consideration should be given to the Outreach Committee assisting if difficulties arise in the relationship between mentor and mentee, so that continued mentorship is made more comfortable, or so that a new mentorship is established.

119. Those with mentoring experience can help to guide those who have not done so previously but wish to be considered for a mentoring role.

H. Inclusion of New Members Within the Academy and Deepening Their Sense of Belonging, Particularly of Those From Equity Seeking Groups

1. Basic Sense of Belonging

120. New members, after their first year, do not have an identifying system of dots or other markers on their badges at Academy meetings to indicate that they are still relatively new to the Academy. In these first few years, they often know few members, so may find going to NAA meetings uncomfortable and unwelcoming as folks do not approach them. This discourages newer members in general, and members of equity seeking groups in particular, from returning.

121. To encourage a greater sense of belonging among relatively new members, there should be a way to distinguish newer members for the first five years of their membership. The Committee suggests the regular green dot for the first year, and other identifiers for years 2 through 5, such as different color badges or dots. The NAA membership should be informed of the identifying system and be encouraged to welcome those in their first five years at receptions and include them in outings and dinner plans.

122. Furthermore, for the new and relatively new members (those in their first five years of membership), there ought to be a regular breakfast at the Annual meeting so that the newest members can meet and get to know other new members, and connections can be established between them.

123. As part of the process of inclusion, the Host Committee for each annual meeting should consider reviving the morning hospitality room for companions/spouses/partners so that they have a convivial place to meet and make friends with other spouses and, over the years, to refresh those friendships at each meeting. The current Directory of Spouses/Companions/Partners from 2006 is now out of date, and should be revived, likely to be found in the Members' log-in section of the NAA website.

2. New Member Orientation Committee (NMO)

124. The New Member Orientation Committee has traditionally been a group of NAA members committed to welcoming new members to the Academy, with the goals of making the Members feel comfortable in their new organizational home, encouraging their attendance at our national meetings going forward, and assisting them in becoming active and meeting colleagues through NAA committee work. For many, the orientation is a satisfying and helpful experience, a place where new members make important connections. In the past, concerns have been shared by some that the NMO experience can be daunting, particularly if the NMO is not itself diverse. Recent and current chairs have acted affirmatively to ensure that all feel welcome and included.

125. Considerable efforts have been made by the NMO towards greater equity and inclusion. However, to the extent these objectives have not already been accomplished, the Chair should reach out to new admittees before the meeting to explain what they might expect and welcome them, as a helpful gesture. The Chair may consider engaging the assistance of those from equity seeking groups within the Academy to assist in this initial process of inclusion.

126. The NMO experience should be a good one for members of all backgrounds, to encourage them to return to NAA meetings and be active in the organization.

127. The NMO should consider including a spokesperson from the DEIB Coordinating Committee (see below) to explain that the Academy takes seriously issues of equity, inclusion, belonging and diversity.

128. The NMO should mention, to the extent this is not already done, the value of having members' partners / spouses attend the Academy meetings with the member. The friendships that develop within the Academy over years of attendance at meetings are greatly enriched by the members' spouses / partners attending as well and becoming a part of the Academy.

129. To the extent this is not already done, the NMO should survey the new

members after the orientation and ask them how the process worked for them, so that the NMO can do better in the future. The information obtained should be shared with the DEIB Coordinator (see below).

3. Committee Selection

130. There must be an awareness within the Academy of the need for representativeness of diversity in the selection of all NAA committees, particularly the Membership Committee, the Nominations Committee, the New Member Orientation (NMO) Committee, and the Board of Governors.

131. To this end, the Academy should make clearer what committees are available, what work is involved, and when the President makes the appointments for those committees. The NAA should encourage all members to let their interest be known to the NAA President or Committee Chairs making those decisions. A description of what committees exist, and what they do, should be regularly disseminated to all members, including to new members at the NMO. Committee selection and other institutional decisions should ensure as much transparency in the process as possible.

132. NAA Committees, leadership, and members should all encourage members of equity seeking groups to become active in committees that interest them and to communicate that interest to the President. The current process (of requesting members to fill out a committee interest form online) appears to be insufficient, and results in limited submissions. There should be more transparency and active encouragement of committee work.

133. Hitherto, there have been insufficient members of colour on the BOG or within officer status. Making the Nominations Committee more racially diverse and ensuring as much transparency as possible should help to address this.

134. Consideration should be given to whether a rule of diversity should apply to the Nominations Committee and the Membership Committee, or other Committees or Offices.

4. Awareness of the Internal Grievance Procedure

135. The NAA's Internal Grievance Procedure is an important advancement within the Academy. Thanks to the great efforts of Betsy Wesman, Homer La Rue, and others, the Academy now has an internal grievance procedure where those who experience racial or sexual harassment from other NAA members can have their concerns addressed. The NAA should publicize this mechanism. Attention should be given to developing an appropriate role for the Internal Grievance Committee, in implementing DEIB culture, values and responsibilities within the Academy.

136. The procedures available to address equity complaints should include informal methods of obtaining remedies, within the choice of the complainant. Those facilitating the resolution of such complaints should consider system-based approaches to solving such complaints.

I. NAA Programs

137. The meeting Program Committee and the Regional Chairs should be urged to take account of DEIB, and of the need for diverse speaking panels at the annual and other meetings. There should be reasonable representation of the different regions, as well as reasonable representation of equity seeking groups on all panels.

138. To the extent the Academy has influence over speaking and moderating opportunities, NAA Member participants should always consider and urge selection of presenters from equity seeking groups.

J. Coordination and DEIB Structure

139. Many initiatives have been proposed here, besides the existing national and regional outreach efforts, and the RCI. There ought to be a member of the Board of Governors (BOG), or Vice-President, with specific assignment to advise and lead the Academy on issues of equity, inclusion, belonging, and diversity. Further, there ought to be coordination of the various initiatives, overseen by a DEIB Coordinating Committee. The Outreach Committee

coordinates the salon initiatives. There is an additional proposal for an Onboarding Committee, to establish pre-arbitrator salons. Those Committees should be represented on the DEIB Coordinating Committee so that the lessons learned in each initiative are shared. In addition, the Chair of the Regional Chairs Committee should serve on the DEIB Coordinating Committee so that DEIB initiatives are easily communicated to the regions.

140. The DEIB Coordinating Committee should review the Academy constitution, bylaws, policies, the Academy website, the constitution, and practices to eliminate preference of one group over another, or any appearance of such preference, and to better promote the recognition of DEIB.

141. Depending on the scale of the work required, on the recommendation of the DEIB Coordinating Committee, the Academy should consider whether to engage a DEIB Coordinator, preferably from among the members of the Academy, though not necessarily. The focus of such an appointment should be executing DEIB strategies. The Coordinator would be responsible to the DEIB Coordinating Committee and to the Academy President and the Secretary-Treasurer, to carry out the initiatives adopted by the Academy. Any program manager of any specific initiative would report to the DEIB Coordinator of their work. The DEIB Coordinator would provide regular reports to the DEIB Coordinating Committee of progress, with recommendations. Whether the DEIB Coordinator is to be a paid position will need to be determined by the NAA Executive Committee and the BOG, in consultation with the DEIB Coordinating Committee.

142. The DEIB Coordinating Committee should be able to engage DEIB experts to develop metrics for measuring success, to conduct suitable member surveys, and for monitoring initiatives and progress.

143. The structure for coordination of such efforts might look like the following (see Fig 2. And Fig. 3, below):

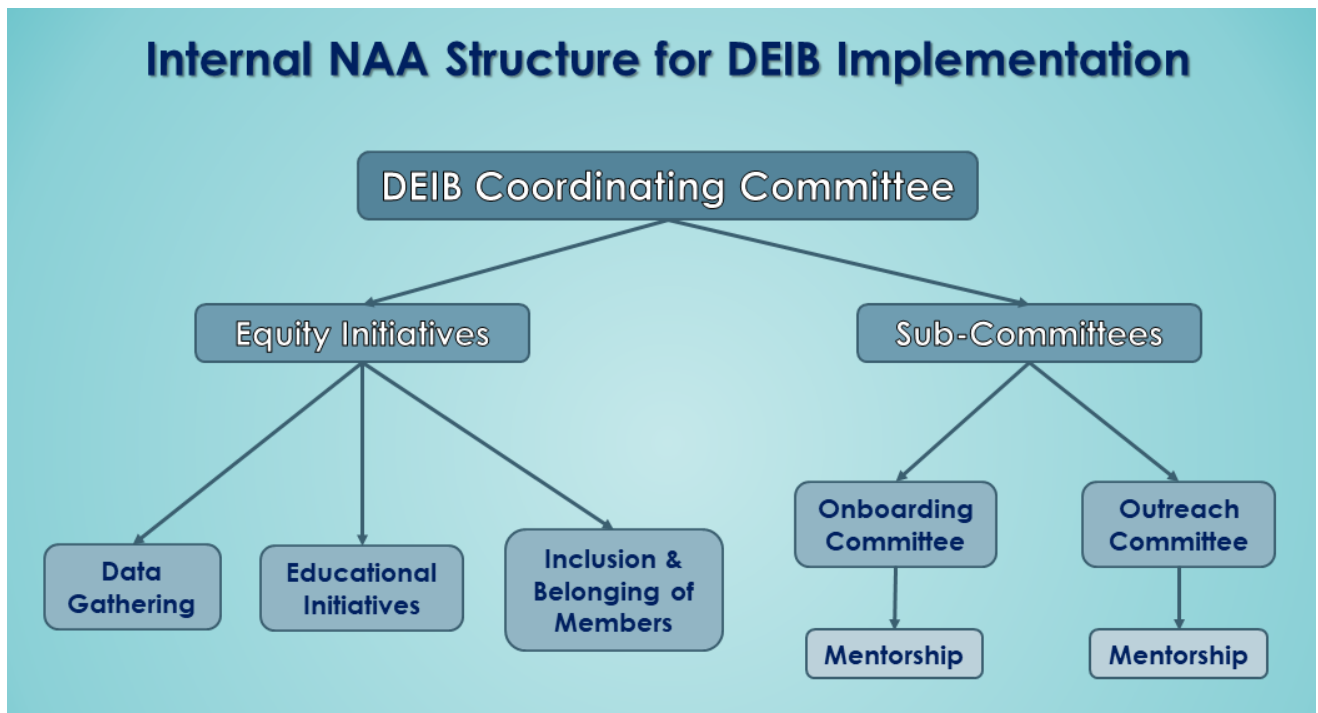


Fig. 2: A proposed internal structure to coordinate DEIB efforts.

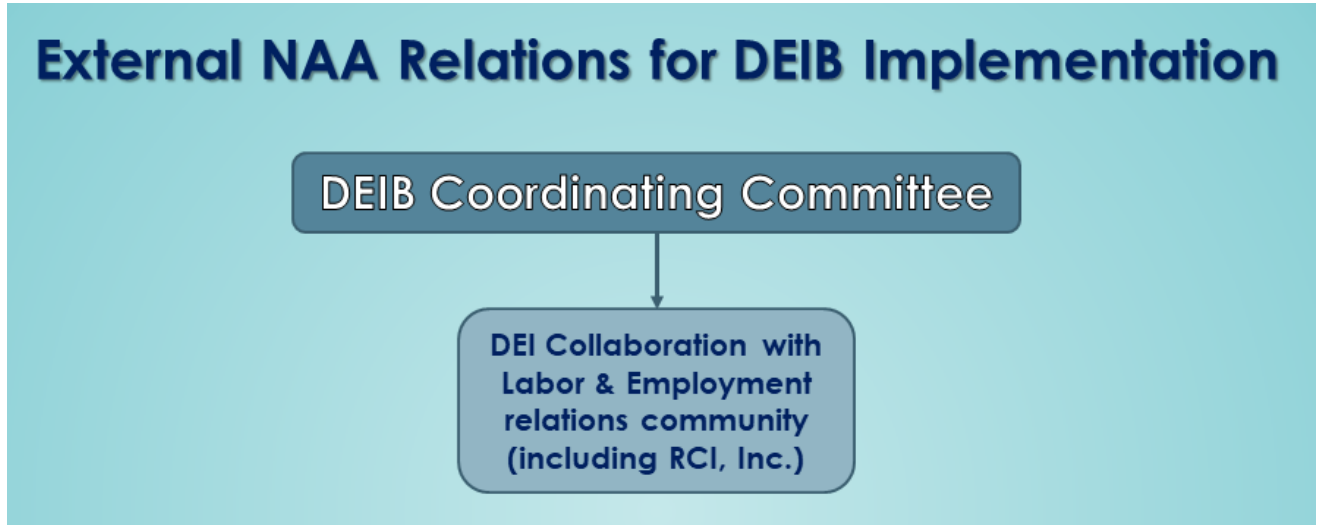


Fig. 3: A proposed structure to allow for collaboration with external entities on DEIB initiatives.

The NAA Structure for DEIB Implementation is designed to combine the Committee's research and planning efforts to assist the Academy in facilitating the development and implementation of DEIB standards, policies, practices and protocols.

Based on best practices, the Committee has identified the implementation of such efforts through the following areas to support the enhancement of organizational effectiveness through DEIB efforts: (1) outreach and initiatives (e.g. the Salon, RCI, etc.); (2) the new member onboarding process; (3) continuing education for Academy members; and (4) informed and diverse leadership representation on Academy committees, and the BOG.

K. DEIB Web Page

144. There should be a space on the Academy's website for the DEIB initiative. That page should contain all the BOG resolutions regarding DEIB and the Report of the DEIB Committee, if approved. The DEIB page should later include such other relevant information, such as educational materials used at DEIB education events. The page should also include information on the RCI, the video explaining the RCI, as well as a link to the RCI website.

L. Purpose

145. The purpose of these recommendations is that, within foreseeable years, the NAA will see an increase in the number of arbitrators of color, women, and other underrepresented groups become members of the Academy. The hope of the Committee is that relatively soon the Academy will be a vibrant organization of arbitrators diverse in age, culture, race, gender, and equity generally in which all feel a sense of belonging and participation.

146. The issues that inform the DEIB initiative can be very personal, even traumatic perhaps due to the consequence of painful experiences of discrimination. Consequently, the process of implementation of any recommendation should be handled with great care, sensitivity, and empathy. The Academy should appreciate that the climate that has created the need for the DEIB initiative is deeply emotionally charged.

147. There is also much controversy as to what methods should be used to best accomplish the goals of equity, inclusion, belonging and diversity. Strong, often contrary, views are held as to what is desirable, what is acceptable, and what might be effective. In all the initiatives, the Academy should uphold its high ethical standards. It should be willing to engage carefully with the DEIB initiative, being sure to consult widely and to consider seeking professional advice, where appropriate.

148. This plan represents a starting point, rather than an end goal. This Committee Report is intended to establish the groundwork for the next two years during which time, there will be an opportunity for membership comment and input.

149. As an initial step, the Committee recommends that input be sought from the Academy membership on this Report and on the Strategic Plan, as the Board of Governors considers appropriate.

150. If the Board of Governors determines that comment from the NAA members should be solicited, the process for doing so, and the period for such comment should be explained, with a plan as to how such comment will be reviewed to complete the Strategic Plan.

Respectfully submitted,

Special Committee Members⁴⁴:

Christopher J. Albertyn, Chair	Homer C. La Rue <i>BOG Liaison</i>
Ruben R. Armendariz	Randi E. Lowitt
Jules Bloch	Sheila Mayberry
Margaret R. Brogan	Edward B. Valverde
Christopher David Ruiz Cameron	Pilar Vaile
Jeanne Charles	John L. Woods, Jr.
Charles P. Fischbach	

⁴⁴ We thank Jacquelin F. Drucker, I.B. Helburn, and Betty Rankin Widgeon for their valuable work and assistance in the preparation of this report. We also acknowledge the assistance and guidance of Annette Boodram, the Equity Manager of York University in Toronto, and Nadia Kanani, the Equity Officer of the Canadian Union of Public Employees, Local 3909, and others. Any omissions or oversights in this Report may not be attributed to them. We acknowledge the early participation of Jay Siegel and Timothy Taylor.

We particularly wish to thank Audrey Roofeh of Mariana Strategies for her invaluable professional guidance in the preparation of this Report.

Date Submitted:

March 30, 2022

APPENDIX A

Appended is a Bibliography & Videography of relevant books, articles, websites, and videos that may help to familiarize the membership with the issues of equity, inclusion, belonging and diversity.

A PARTIAL RESOURCE LIST RELATING TO DISCRIMINATION AND DIVERSITY

A. Introduction

The Special Committee on a Strategic Plan to achieve Diversity, Equity, Inclusion, and Belonging (DEIB) has been charged with developing a strategic plan for consideration by the National Academy of Arbitrators' Board of Governors. The Mission of DEIB is to establish Diversity as a core NAA value by integrating and formalizing Equity, Inclusion and Belonging principles within institutional standards, policies, practices, and protocols.

Central to the Committee's deliberations is not only the acknowledgement that the NAA cannot currently claim a diverse membership, but also that the broader labor and employment arbitration profession cannot claim to be diverse and that the NAA ought to be a leader in addressing the lack of diversity within and outside of our Academy. The source list in this appendix is not meant to be exhaustive, but to give readers an opportunity to increase their understanding of the implications of discrimination on entry into the profession and, ultimately Academy membership.

B. Books

Between the World and Me, Ta-Nehisi Coates (2015)

The book has been characterized as "a bold and personal literary exploration of America's racial history."

Biased: Uncovering the Hidden Prejudice That Shapes What We See, Think, and Do, Jennifer L. Eberhardt (2019)

The book is an exploration of how unconscious racial bias shapes human behavior.

Caste: The Origins of Our Discontent, Isabel Wilkerson (2020)

Wilkerson explores covert negative sentiment toward Black people that is systemic, hidden and deeply ingrained in our institutions.

The Color of Law, Richard Rothstein (2017)

The author explores the government policies at all levels that have led to segregation and social strife.

The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies Scott E. Page (2017)

Page explains how we think in groups and the reasons why group decisions drawing on individuals result in better decisions than those of brilliant minds working alone.

How to Be An Antiracist, Dr. Ibram X. Kendi (2019)

Kendi discusses concepts of racism and then turns to proposals for anti-racist individual actions and systemic changes.

I Know Why the Caged Bird Sings, Maya Angelou (1969)

Maya Angelou's autobiography address issues of molestation, rape and racism within the context of the difficulties of growing up.

Look, a White!: Philosophical Essays on Whiteness, George Yancy (2012)

The Sum Of Us: What Racism Costs Everyone And How We Can Prosper Together, Heather McGhee (2021).

Using economic data to show how racism harms everyone in society, and how to change course for the benefit of everyone.

The Warmth of Other Suns, Isabel Wilkerson (2010)

The book explores the decades-long migration of Black citizens who fled the South in search of a better life in Northern and Western cities.

White Rage: The Unspoken Truth of Our Racial Divide, Carol Anderson (2016)

The author issues a call to confront the legacy of structural racism stemming from white anger and the resulting threat to American democracy.

C. Articles

National Academy of Arbitrators, *Dialogue on Race, The Elephant in the Room*, The Chronicle, Spring 2021.

Juliet Bourke et al., *The Key to Inclusive Leadership*, Harvard Business Review (2020), see: <https://hbr.org/2020/03/the-key-to-inclusive-leadership>.

Sasha A. Carbone & Jeffrey Zaino, *Increasing Diversity Among Arbitrators*, 84 N.Y.St. B.J. 33 (2012).

Chandrasekher, Andrea, *An Empirical Investigation of Diversity in U.S. Arbitration* (March 1, 2021). Available at SSRN: <https://ssrn.com/abstract=3903718>.

Sarah Rudolph Cole, *The Lost Promise of Arbitration*, 70 S.M.U. L. Rev. 849 (2017).

Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, University of Chicago Legal Forum: Vol. 1989: Iss. 1, Article 8. Available at: <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>.

Richard Delgado, Chris Dun, Pamela Brown, Helena Lee & David Hubbert, *Fairness and Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution*, 1985 Wisc. L. Rev. 1359.

Francesca Gino et al., *Unconscious Bias Training That Works*, Harvard Business Review (2021), available at <https://hbr.org/2021/09/unconscious-bias-training-that-works>.

Michael Z. Green, *Arbitrarily Selecting Black Arbitrators*, 88 Fordham L. Rev. 2255 (2020).

Stefanie K. Johnson, David R. Heckman, & Elsa T. Chan, *If There's Only One Woman in Your Candidate Pool, There's Statistically No Chance She'll Be Hired*, HARVARD BUS. REV. Reprint H02U2U, 1 (April 26, 2016).

Homer C. LaRue, *A Call—and A Blueprint—for Change*, 27 Dispute Res. Mag. 6 (2021).

Homer C. LaRue and Alan A. Symonette, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection*, 63-2 HOW. L. J. 215 (2020).

Dr. Ibram X. Kendi, *Who Gets to Be Afraid in America*, Atlantic (May 12, 2020).

Jenice L. Malecki, *Diversity in arbitration: Not Being An Old White Male*, N.Y.C. Bar 351, 2018, WL 3417968 (2018).

William H. Frey, *America's Shrinking White Population Needs to Value Youthful Diversity*, BROOKINGS—THE AVENUE: RETHINKING METROPOLITAN AMERICA (Sep. 9, 2021), available at <https://www.brookings.edu/blog/the-avenue/2021/09/09/americas-shrinking-white-population-needs-to-value-youthful-diversity/>.

Salwa Rahim-Dillard, *How Inclusive Is Your Leadership?* Harvard Business Review (2021), available at <https://hbr.org/2021/04/how-inclusive-is-your-leadership>.

Sarah Saska, *How to Define Diversity, Equity, and Inclusion at Work*, CultureAmp, available at <https://www.cultureamp.com/blog/diversity-equity-inclusion-work>

Dnika J. Travis and Jennifer Thorpe-Moscon, *Day-to-Day Experiences of Emotional Tax Among Women and Men of Color in the Workplace*. Catalyst (2018).

George Yancy, *Dear White America*, The New York Times (2015), available at <https://opinionator.blogs.nytimes.com/2015/12/24/dear-white-america/>.

D. Web Resources

25+ Examples of Awesome Diversity Goals <https://blog.ongig.com/diversity-and-inclusion/diversity-goals/>

Crip Camp (Netflix <100 minutes) <https://bit.ly/3pnnNNv>.

Let's Talk About Race (Ted Talk <20 minutes) <https://www.youtube.com/watch?v=6tUBJ-1MWG8>.

The Ray Corollary Initiative: An Explainer (<7 minutes) <https://youtu.be/45wbucDDTFs>.

Judges Explore Implicit Bias (Ted Talk <10 min.) <https://duckduckgo.com/?q=Implicit+bias+Judge+presentation+youtube&atb+v239-1&iatx=videos&ia=videos&iai=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3D12TY110t8PY>.

Milagros A. Phillips, What Is “Race Literacy?” (Ted Talk), and Joan C. Williams, Why Corporate Diversity Programs Fail and How Small Tweaks Can Have A Big Impact (Ted Talk).
<https://web-assets.bcg.com/0b/c4/c45a07e54f48ae0dc784667a66dd/bcg-its-time-to-reimagine-diversity-equity-and-inclusion-may-2021-r.pdf>
<https://www.youtube.com/watch?v=fZfcc21c6Uo>
<https://implicit.harvard.edu/implicit/takeatest.html>.

E. For Additional Resources see:

<http://jewishrochester.org/anti-racism-resources>.
https://www.americanbar.org/groups/labor_law/membership/equal_opportunity/.

Pilar Vaile interviewed some equity seeking non-Academy arbitrators on their experiences. Their views include comment on the NAA's membership standards. Her report of the interviews can be obtained from her directly at pilar@pilarvaileadr.com.

F. For Resources Pertaining to Canadian Indigenous People:

A Mind Spread out on the Ground, Alicia Elliot, 2019.

All our Relations: Finding the Path Forward, Tanya Talaga, 2018.

Building inclusion for Indigenous Peoples in Canadian workplaces, Jennifer Thorpe-Moscon et al. Catalyst, (2021), available at <https://www.catalyst.org/research/inclusion-indigenous-peoples-canada-workplace/>

Call Me Indian: From the Trauma of Residential School to Becoming the NHL's First Treaty Indigenous Player, Fred Saskamoose, 2021.

Final Report of the Truth and Reconciliation Committee of Canada: Honouring the Truth, Reconciling for the Future, July 2015.

Five Little Indians: A Novel, Michelle Good, 2021.

From Where I Stand: Rebuilding Indigenous Nations for a Stronger Canada, Jody Wilson-Raybould, 2019.

The Inconvenient Indian: A Curious Account of Native Peoples in North America, Thomas King, 2017.

Indigenous Peoples Atlas of Canada, The Royal Canadian Geographical Society / Canadian Geographic, 2018.

Indigenous Writes: A Guide to First Nations, Métis & Inuit Issues in Canada, Chelsea Vowel, 2016.

Our Story: Aboriginal Voices on Canada's Past, Thomas King et al, 2005.
The Reconciliation Manifesto: Recovering the Land, Rebuilding the Economy,
Arthur Manuel, 2017.

Seven Fallen Feathers: Racism, Death and Hard Truths in a Northern City, Tanya
Talaga, 2017.

Starlight, Richard Wagamese, 2018.

21 Things You May Not Know About the Indian Act: Helping Canadians Make
Reconciliation with Indigenous People a Reality, Bob Joseph, 2018.